Insertion of Olders Brazilians in the Labour Market: Economic Constraints and Proposals for New Regulations

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Abstract: This article aims to discuss the insertion of olders Brazilians in the labour market and shows proposals to promote the debate about labour regulations to people 60 years or more. In the first part, is showed how the population aging phenomenon is viewed by European Union, particularly by France, on the point of view of the new concept, the silver economy, and how this can improve the insertion of the older people in the labour market. Following, is analyzed the National Older People Act (Law 8.842/1994), mainly its article 10th; the phenomenon of "weakening of the career second half" (Guillemard, 2010) and the women participation. In the final considerations, were made recommendations to improve the older worker participation.

Keywords: population aging, Brazil, labour market, economic development, silver economy.

Inserção de idosos brasileiros no mercado de trabalho: restrições econômicas e propostas de novas regulamentações

Resumo: O objetivo deste artigo é discutir a inserção dos idosos brasileiros no mercado de trabalho e mostrar propostas para promover o debate sobre a regulamentação do trabalho para pessoas com 60 anos ou mais. Na primeira parte, é mostrado como o envelhecimento da população é visto pela União Europeia, sobretudo pela França, sob o ponto de vista da "economia da longevidade" e como esse novo conceito pode melhorar a inserção dos idosos no mercado de trabalho. Em seguida, é analisada a Política Nacional do Idoso (Lei 8.842/1994), principalmente o artigo 10, o fenômeno da "fragilização da segunda parte da carreira" (Guillemard, 2010) e a participação das mulheres. Nas considerações finais, foram feitas sugestões para melhorar a participação dos trabalhadores mais velhos.

Palavras-chave: envelhecimento populacional, Brasil, mercado de trabalho, desenvolvimento econômico, economia da longevidade.
1. Introduction

The population aging and the global financial crisis erupted in 2007, placing again the security pension issue at the heart of the economic debate. Pension systems were immediately blamed for the public deficit, especially in European countries. However, five years later, a new interpretation began to gain ground among some EU governments, according to which there is an opportunity to be seized from the fact that we live in a world inhabited by a greater number of elderly people. This view in no way nullifies the merely fiscal view, still hegemonic. It is however, a complete inversion in the form economists face today the unprecedented challenge of providing solutions to the sustainability of aging societies.

When assessing the labour market for people over 60 in Brazil, in the light of the Law 8.842/1994 or so-called Política Nacional do Idoso (hereafter PNI - National Older People Act) it is essential to mention this change of the worldwide paradigm that is now in sight, because, after all, before any regulation, labour supply depends on macroeconomic policies. In other words, it depends on which economy the worker is - or not - inserted. It is therefore necessary to know what perception society has of the population aging process, from an economic point of view. Whether it is a phenomenon only to demand welfare answers from the public policies or whether it should also be a possibility of generating wealth for the whole society. The elderly worker will always be at the mercy of that choice.

The birth of this new vision of the population aging is a report by the French government (Bernard et al, 2013), which places the demographic transition as the "lever" for the resumption of economic growth after the so-called "Great Recession". Prepared jointly by the Ministère déléguée auprès de la ministre des Affaires Sociales et de la Santé, chargée des Personnes Âgées et de l’Autonomie and the Ministère du Redressement Productif (Ministry of the Elderly and the Autonomy and the Ministry of Productive Affairs), the report exposes ongoing actions and six proposals under the industrial policy, infrastructure, finance, information technology, civil construction, telecare and tourism to build the vein of what came to be called Silver Économie (Longevity Economy). In addition to the building of an articulated policy with almost all ministries, the initiative involves the major French companies from various sectors due to the expansion of export opportunities for goods and services. That is, the aging population, according to French economists, authors of the document, opens opportunities for positive balance of trade.

Thus, the job market for the elderly is part of a large articulation underway in the global economy, especially in Europe, under this new perspective of the aging population issue. That is a bet from France to stop being one of the European Union countries with lower employability for workers above 55 years - result of transformations occurring in the labour world since the 1970s, and which still need the reaction from part of the society -

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1 See Esping-Andersen and Palier (2008), who explore the social policies theme that have become, in the post-industrial society, denounced as a cost and not as a means to support the economy.

2 The writing of the report, with more than 100 pages, was in charge of three economists and technicians from the Commissariat Général à la Stratégie et à la Prospective, equivalent in Brazil to the the Secretaria de Assuntos Estratégicos (SAE).

3 France adopted, according to that report, the nomenclature in English, which is already usual in other countries which develop the same strategy. In Portuguese, this author adopts, since 2007, the term Economia da Longevidade (Longevity Economy). View Felix, 2009.

4 The activity rate of the population over 55 years of age has declined in many rich countries since 1960. See Guillemard, 2010.
under the penalty of the aging population exacerbate the social inequality. It is also from this setting that this article intends to analyze the insertion of the Brazilian elderly in the labour market and the institutional capacity of the PNI in this social enterprise in the last 20 years and in the future, which is its ability to promote and provide answers for this social-economical challenge.

The next section provides an overview of the proposed guidelines by the French document, referring to the comparative discussion of the theme in other countries and with the objective of establishing distinction from the Brazilian case regarding the labour market for the elderly. Then the third section details the situation of the Brazilian elderly workers in the two decades of the PNI validity. The fourth section shows the trends of an aging society amid the transformations of the labour market and the risk of "weakening of the career second half" seen in European countries. In the fifth and sixth sections, respectively, address the participation of women in the labour market and the need to adopt retirement preparation programs. Then the Article 10 of the PNI is analyzed specifically, the one about the subject labour, in order to assess its chances of effectiveness in the future. Finally, recommendations are made by way of final considerations.

2 - New economic view of the aging population: the French case

Many economists point out the aging population as the backdrop of the financial crisis of 2007/08. According to some analysis, the hypertrophy of the credit market that raised the modality of subprime mortgages\(^2\) comes from the actuarial needs of pension funds (and other institutional investors), that is, the saving with a view to retirement. This is the financial capital to circulate freely around the world in search of 24/24 profitability in the deregulated environment. Other authors argue that the crisis happened by the impossibility of European countries, above all, honour their social security systems from the glorious times of the Welfare State after the Second World War. Independently from the analysis, as soon as the crisis broke out, the aging population entered the agenda, often as the "problem" or causing the "deficits" or the famous "time bomb".

Some governments have undertaken reforms of pension systems, including in France, under the cudgel of fiscal austerity policy from plurilateral or multilateral financial institutions. Five years later, although the speech of fiscal balance is still prevalent in the mainstreams of the economy, the austerity policy is questioned by various sectors and governments as to result in lower product growth and delay the resumption on solid and promising conditions. This is the appropriate summary in the scope of this chapter.

What matters here is to note that, in this context, economists of different schools and governments - European, Asian and even from the United States - initiate a review of the

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\(^2\) The subprime mortgages were the trigger of the financial crisis of 2007/2008 started in the United States. It refers to the real estate mortgages offered by banks to clients with interest rates below the prime rate level practiced without, however, require collateral guarantee in case of default. Although configured as a high-risk credit, the receivables were accounted for on bank balance sheets. To many clients the subprime was granted for the financing of home ownership, which was already offered at low interest rates and a very low initial down payment compared to the total amount of credit.
interpretation of the phenomenon of population aging in relation to the economy. The French case is an example in this upheaval, although it is far from being the only one[6].

The report *La Silver Économie, une opportunité de croissance pour la France* explained, in an official way, as mentioned above, for the first time, a broadening of the understanding of population demography - far beyond the challenge of social security systems. The society must adapt to the new population setting and not vice versa, and the aging population is defined as a "formidable progress". The focus of the French government is to leverage the growth of domestic consumption of goods and services for the elderly, where the growth forecast is 150% by 2050 to stimulate their industry and the trade balance by fiscal encouragement to the export of high added value products, mainly in the telecare industry. Therefore, for the plan to succeed, the inclusion of workers from the 50 to 64 years in the market is a *sine qua non* condition. Since 1999, the European Union had set this as a priority issue in its agenda. The difference now is that raising the employability of *seniors*[7] is seen not as an action on behalf of the well-being and the concept of active aging, but as an essential strategy for economic development[8].

The first recommendation of the report proposes that action of the State in the industrial plan, once the value of new technologies to assist the care of the older and dependent elderly, is an opportunity, and implies as a lever for the export of products from the areas of robotics, ITC, remote medical devices, etc. The State should be the coordinator without mobilizing direct resources, but creating communication tools (portals, advertising campaigns), integration (*bus*), regulation (by identified certification from specific public organizations) such as "elderly friendly" or "according to elderly needs" thus creating an infrastructure to stimulate innovation of goods and services of care. This infrastructure has its core the telecare industry (robotics), using the standardization of digital platforms and targeting the interaction that will be afforded by the "internet of things", that is, the government should work to unify the need for care in a more aging population with the industrial policy. This advance in the aid of technology for families is to support the women, since in most of the cases assumes the role of caregiver for the elderly family members, but is also head of the household and / or supports the family budget, and has direct impact on its employability and its maintenance in the labour market.

The second recommendation is the importance of the State to act as a regulator of the most promising sector of the Longevity Economy, the telecare, inclusively creating a specific regulatory agency, as the public sector appears to be the major customer of these companies, while the presence of giant computer or technology companies in the segment may pose risks of cartels and monopolies.

As for the savings and expansion of the purchasing power of the elderly, many issues are specific to France; however, one of them may be an alternative to other countries. In Brazil, it could be an option to loan modalities, such as payroll loans, for example. The

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[6] *The final report of the European Summit on Innovation for Active and Healthy Ageing (Brussels, 9-10 March, 2015) indicates the French strategy as a benchmark for all EU countries (European Commission, 2015, p. 17).*

[7] *For the French sociologist Vincent Caradec, the "third age" term coined in the 70s by the French to designate the elderly age lived after retirement, weakens against the senior term coined by marketing to refer to those over 50 years with consumer power interest in using what they produced throughout life.*

authors propose a replacement of traditional mortgage for a partial sale of the property of people over 65 years for a financial institution. This agent would share the ownership of the property until the death of the original owner. After the death of the owner, the heirs would have the priority to repurchase the share sold in life. The aim of the proposal is to increase the purchasing power of the elderly, providing liquidity without creating debt. This item was presented on the situation of the French elderly consumer savings, which has equity (70% of the elderly population owns a property), but does not have enough income to increase their consumption. The expansion of the elderly liquidity would be a kind of insurance to the tendency to accept this precarious work in situations of debt or the need for additional income, as it will be seen this further.

The fourth proposal of the report advocates the creation of financial products adapted to the needs and prospects of saving provision in this segment of the population. The economists quote researches on the difficulty of the individuals due to the healthier aging, anticipate the risks of autonomy loss. This “agent’s myopia” conducts according to the authors, to a sub-sizing of savings and insurance, therefor the State should promote campaigns to raise awareness about the old age risk. These campaigns should be directed to the families and even the young adults. This mobilization to raise awareness of the need to plan for a longer life should include private companies through events, advertising and digital platforms and face-to-face information sharing - initiatives already under implementation in the country.

The fifth suggestion is a sector fund to finance the industry of products intended for the elderly, conceived less as venture capital and more as industrial policy. Finally, the authors recommend stimulating the development of smart homes, equipped with innovative digital devices.

In this set of actions, and particularly under this new paradigm that France faces the challenge of inclusion of the mature worker in the labour market. Until then the actions were directed, since the 1970s, initially for the early retirement as a way to prevent unemployment of young people, then for the postponement of retirement to ease the pension systems. Since 1988, the country created the "gradual retirement", expanded in 2010, and in 2009 it recognized by law the accumulation of retirement and new job, establishing a salary cap (including the in the public sector) and percentages for the new social security contribution.

However, parallel to the mounting of the Longevity Economy, the diagnosis that as serious as early retirement is the unemployment from the age of 50 crystallizes. In addition to disrupting the social security contribution hindering the achievement of the eligibility criteria for retirement of these people, it also compulsorily expels the worker from the market and reduces the income of the growing elderly population, thus threatening the consumer market and the economic development in the 21st century. In other words, the discussion of the extension of the labour phase ceases to be made only in the fiscal sphere and admits the existence of structural causes in the economy, whether in education, in business management or state regulation. Therefore, in the Longevity Economy philosophy, the report acknowledges that the incentives for later retirement do not follow "mechanically" the improvement of the employability of elderly. According to the authors, there is a cognitive dissonance in the speech.

The qualitative aspect gains importance in the search for solutions. The authors of the report cite the research from the Agence Nationale pour l’Amélioration des Condition de Travail (ANACT) in which three profiles of elderly workers are defined, as follows: a)
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fragile; one who exercises a labourious activity, present mostly in industries which demand a progressive retirement policy; b) outdated; busy especially in the service sector, has experience but their skills are more vulnerable by technological advance, requires more continuing education; c) expert; it is the specialist in its field of work, skilfully handles high technology tools, demands incentives to transfer expertise and enterprising funding.

According to the profile, recommends the report, one can establish the “anti-selection phenomenon”, focusing in terms of labour or social security legislation the most disadvantaged segments with more need for supplementary income, with more justification to dispose of differentiations eligibility for retirement or for maintaining in the labour market, even with exemption of social security contribution. The economists argue for a legislation to enhance the senior labour force, always with the prospect of maintaining the purchasing power of the elderly segment in order to ensure the strength of a domestic consumer market.

3 - The situation of the Brazilian elderly worker under the Law 8.842/1994

The Brazilian government since 1990, directs its social security legislation to impose or encourage the postponement of the retirement age, above all, for the general workers, i.e. from the private sector, governed by the Consolidação das Leis do Trabalho - CLT (Consolidation of Labour Laws). This endeavor took place mainly through two reforms of the Social Security, one in 1998 (in the government of President Fernando Henrique Cardoso, when the factor previdenciário - social security factor - was created) and another in 2003 (under President Luís Inacio Lula da Silva) which deals with the reform of retirement in the public sector, although several laws have been enacted with relevant changes in repartition system. Importantly, these changes were driven exclusively by a tax vision to pursue the balance of public accounts threatened by the need to change the standard of resource transfers, a need imposed by the demographic conjunction.

In any moment during the legislative debates, the issue of worker’s employability over 60 years of age, or even 50, was taken into account. It was assumed that economic growth alone would allow employment and the eligibility for the future of the retirement of elderly would be guaranteed. Not even the Brazilian State was concerned to involve private companies in this fiscal effort with measures to encourage the continued employment of elderly, with retraining or programs preparing for later retirement. These points will be more explored further.

Thus repeating the error pointed out in the aforementioned international literature, the result of the State action in the field of security is a cognitive dissonance between the official speech on the postponement of retirement and the reality perceived in the labour market, especially for less qualified workers, though the most skilled are far from remaining immune.

The statistics show that since the 1990s, despite the rapid pace of the population aging, a decrease in the proportional share of elderly in the labour market has been observed, despite the growth of the economically active elderly population at a rate above

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9 While recognizing that the majority of the most innovative companies are of young entrepreneurs, the report points out that in France, 13% of them are the initiatives of an entrepreneur with more than 50 years. Another point is that many young entrepreneurs have "angel investors", mostly elderly, family or not, who decide to invest their savings in promising ideas.

10 For details of all the changes see chapter 10 in Marques and Ferreira, 2010.
the total economically active population (EAP). From 1992 to 2002, the labour force grew 24.1% and from 2002 to 2012, 14.1%. The elderly EAP increased 23.2% in the first period and in the second, 32.8%, always according to PNAD – IBGE research. This growth rate is explained by the aging population and the permanence in the labour market even after retirement. These percentages, however, are lower than the overall growth of the elderly population, respectively, 40.6% and 51.8%. This represented a 12% decline in elderly activity rate for both genders in two decades.

Despite of the increase formalization of the labour market\(^\text{11}\) in this period being appointed as one of the factors explaining this decline, as highlighted by Santos and Barbosa (2014), as it is a security coverage\(^\text{12}\) and the real increase in the minimum wage (from 2003), it enabled inactivity, i.e. it guaranteed retirement as a right, it is necessary to investigate the role of the labour market itself in this decision to withdraw from the working life. What's more, was the PNI in these 20 years able to cause a positive effect on the satisfaction and safety of older workers?

There are two main conditions of the elderly in the labour market: a) retired still active and b) self-employed (self-employed or for their own consumption, retired or not). In the first case, the pension reforms were unable to achieve their goals and postpone the average retirement age. The worker in the private sector agreed to pay the toll the social security factor (fator previdenciário), that is, the reduction of income due to a retirement considered "early" by law. Despite the government effort to postpone retirement under penalty of a supposed breakdown in the social security accounts, Camarano et al. (2012) find that age for retirement granting remained constant between 1992 and 2010 in Brazil, except for the increasing age of those who retire by contribution time where it affects the security factor. This means the impact of the reforms was more intense on the private sector worker, where men retire, on average, three years later than the required minimum age and the women four\(^\text{13}\). In 2013, the average age of the Brazilian retirement age was 54 years\(^\text{14}\). This situation acts as cause and consequence of the retirement decision yet in a suitable condition for the job. The cost of the opportunity has a significant weight since the formal retirement does not mean effective market exits.

The fact is that mature workers (over 55 years) or retired elderly is returned to the market in a precarious labour situation. Tonelli and Spider (2013) note that the older professionals are willing to act in “various working conditions.” The implication confirms the

\(^{11}\) The degree of informality rose from 55.1% in 2001 to 45.4% in 2011, a reduction of almost 10 percentage points in the decade. The degree of informality is defined as the sum of self-employed workers without a formal contract registration document divided by the sum of the self-employed without registration document, with registration document, statutory workers and military. See IPEA, 2012.

\(^{12}\) In the previous two decades, from 1970 to 1990, Brazil has expanded its network of Social Security. In 1970, 17.2% of elderly men had no pension income and in 1997 this percentage was only 3.8% (Camarano, 2001).

\(^{13}\) From a tax point of view, the result was significant, even shorter than expectation of legislators. When the criteria is merely fiscal, a few months of postponing retirement cause accounting effect, as shown by the OECD studies. See Esping-Andersen, 2009, p. 157.

\(^{14}\) Data from the Ministério da Previdência Social (Ministry of Social Security) mentioned by the executive secretary Carlos Gabas speaking at the 3ª Encontro Ibero-Americano sobre Direitos Humanos das Pessoas Idosas na Região (Third Ibero-American Meeting on Human Rights of Elderly People in the Region), on October 1, 2013, in Brasilia. For more details see: http://www.previdencia.gov.br/arquivos/office/1_130710-081201-638.pdf
advantage of hiring older workers for companies, mentioned by Camarano (2001), as if retired, the tendency is to accept an opportunity "with low labour guarantees". That is, in addition to the market demand for an older workforce in quantity below the offer raised by population aging, when it absorbs, the tendency is to do so in precarious conditions. Tonelli and Spider (2013) also note the denial of the companies in keeping mature workers on their staff, under the justification of reduced productivity (or cutting production costs by dismissal of employees with higher wages)\textsuperscript{15}.

This exclusion explains in part the self-employed worker to appear as the second most seen condition of elderly people entering the labour market. As well as the retired still active, the second condition also presents a disadvantage for workers in terms of labour laws and income. It simultaneously crystallizes with high rates of unemployment among people with higher income seen between the years of 1992 and 2002 (POCHMANN, 2006). These workers were pushed to the pejotização\textsuperscript{16}, informality or other forms of precariousness what is called in the literature "on their own". In practice, the "on your own" is "in fact on its own" - without State protection guarantees. This condition introduces an unusual relationship with the State, as the worker begins to collect, among other taxes, depending on the nature of the business activity, the Contribuição Social sobre o Lucro Líquido (CSLL) (Social Contribution on Net Profit). That is the salary is taxed as a profit as a makeup for a business-to-business relationship. The aggravating, from the standpoint of Longevity Economy, is that this non-existent "profit" has little chance of returning in the form of services when the worker reaches 60, 70 or 80. This means, in practice, the total failure of an intergenerational pact.

In the 2002-2012 decade, however, it is observed that this condition increasingly settles before 60 years and implies the loss of labour benefits regardless in many cases that the worker renders the same service or relationship in the everyday employment with the former formal employer. Santos and Barbosa (2014) find, based on PNAD, that after 54 years, there is a sudden drop in the curve of employees governed by the CLT (labour code) and the rise of the self-employed. When informally, the mature workers or elderly are the variable asset of high profitability for companies because these are exempt from all labour obligations and the Social Security. In the pejotização situation, as well, although workers can collect social security and have other benefits in its own "company". Moreover, its collection is reduced in most cases, thus compromising their future income in case of reaching the retirement eligibility criteria. It is impossible to say, as it occurs in a broad and repetitive literature, that this condition is more "attractive" or arises as an "option" for the mature worker or elderly (especially the non-retired). It is the result of changes that occurred in contemporary capitalism, which have an impact on the labour market (Standing, 2011; Castel, 2012). This reality has presented a challenge to the formal labour market, despite the progress of

\textsuperscript{15} The research from Tonelli and Aranha was prepared with the support of the Federação das Indústrias do Estado de São Paulo (Federation of São Paulo State Industries) (FIESP), the SESI - Serviço Social da Indústria (Industry Social Service) and the American Chamber of Commerce (Amcham-BH) and PricewaterhouseCoopers (PwC) between November 2012 and January 2013. It proves statements from Standing (1986) when he points out that the market tends to consider five costs for the employment of elderly or mature worker: general costs, lower productivity, social protection, less adaptability and lower motivation, regardless of experience, quality and qualification (Apud Guillemard, 2010, p. 92).

\textsuperscript{16} Employees transformed into Legal Entity (Pessoa Jurídica or PJ).
Recent years in Brazil, either by increased hiring by the CLT (labour code) or by joining the Microempreendedor Individual system - MEI (Individual Micro-entrepreneur)

It is necessary to warn that the supposed "autonomy" granted to the self-employed - always pointed out as an advantage or justification for this "alternative" after 60 - is very illusory. In contemporary capitalism, large companies are organized in a network in order to have and take ownership of the production of the medium and small (whether autonomous, craftsmen, micro individual or the ones which often have labour free from family members). "Independent" companies do not assure survival without being affiliated with larger organizations. Soon, the work time will always available for clients, usually large companies.

These two conditions allow finding a marginal insertion of the elderly in the labour market. Whether formal, accepting lower wages because it is seen as a retirement income complement (a complete distortion from the meaning and significance of retirement), or informally, in its various manifestations, especially the one that is the legacy of a weakening in the second half of their working lives. This vulnerable situation worsens, often, when this weakening occurs very close to the age to which the employee would be entitled to retirement. In short: an analysis of the situation of elderly workers in the labour market and legislation that intends to be promising to integrate, can never be satisfactory without taking into account the economy in its complexity and, in particular, the working lifespan of the individual in a world of work on the move in the 21st century.

4 - The weakening of the second half of career

The data presented in the previous section corroborate the thesis that, from the 1980’s, the trajectory of mature workers (+ 55 years) and / or elderly (+ 60) follows the world trend in Brazil. The metamorphosis of the labour market observed since the last two decades of the 20th century by wide literature caused increased worker vulnerability in an increasingly early age, starting from 45 years, and with great impact on after-labour phase, in his income situation and activity after 60 years. Although the elderly worker is also benefited by the significant drop in unemployment from 2003 to 2013 in Brazil, when the unemployment rate fell from 12.4% to 5.4% (PME / IBGE), this picture, in any way, protects the effects of the dynamics of contemporary capitalism.

These transformations in the labour world are the result of the said “capital restructuring” occurred from the 1970s (after the oil shock), from the unprecedented global competition of labour starting from China's entry into the market economy (2001) and lower costs of transportation and communication due to technological advances which

17 For an analysis in detail, see Alves and Tavares, 2006.
20 See Chesnais, 2005. Standing, 2011 (p. 28) points out that we should not only take into account the expansion of labour supply by China's entry into the globalization process, but also other countries with cheap labour, as India, the former Soviet bloc, Vietnam, Indonesia, Cambodia and Thailand. This number of new workers, he said, reaches 1.5 billion. According to the ILO, the hourly wage rate ranged from about 35 USD in Denmark to just over USD 23 in the United States, about USD 13 in Greece, between USD 5 and 6 in Brazil to less than USD 1, 5 in the Philippines. Using a different and not comparable methodology, the total cost of hourly wages in manufacturing were estimated at USD 1.36 in China for 2008 and USD 1.17 in India for 2007 (Labour Statistics Office US-United States Department of Labour, Bureau of Labour Statistics, in 2011, Apud ILO, 2014).
enable the mobility of production factors, the main characteristic of mondialisation\textsuperscript{21}. This phenomenon of contemporary capitalism coincides with the stage of aging of the world population and the hypertrophy of a capitalist logic increasingly financial and patrimonial at the expense of production. As Esping-Andersen (2009) says, the "logic of industrialism" used to be a strong synthetic concept for what stimulated the existence of individuals as workers, the place that each would have in the social hierarchy and the type of life course that could expect until the end of their working capacity. Nevertheless, this universe of production disappears into the 21st century with sufficient and quality employment.\textsuperscript{22} Currently, two-thirds of the economic activities, recalls the author, are centred in the service sector.

In this multiple process of the labour world in the passage of the 20th century to the 21\textsuperscript{st}, as mentioned by Antunes (2011), there was a heterogeneity of the market, with three striking features. The first comprises the automation, especially in the advanced capitalist countries, and deproletarianization, that is, the reduction of jobs in the industrial sector and expansion in the service sector. The second feature is the consequence of the first and appears as a subproletarianization, i.e. the process of informality mentioned in previous sections together with a structural unemployment. As noted, in the last decade, Brazil has mitigated the effects of this trend. However, it is assumed that this is a cyclical and fragile situation because pendulum to the economic growth rate\textsuperscript{23}. The third feature is the combination of the incorporation of female labour workforce, treated in the next section, simultaneous to the exclusion of young and old. This involuntary disconnection (dismissal) occurs:

"when, in the context of the 'internal flexibility' pursuit, the company understands to adapt the skills of workers to technological changes. The permanent training development can function as a permanent selection. The result is the invalidation of the 'workers who are ageing', too old or not sufficiently trained for recycling, but too young to benefit from retirement" (Castel, 2012, p. 513).

This limbo, where mature workers settle, raised by the transformations of the labour world is defined by Guillemard (2010) as the "weakening of the second half of career". In comparative research on the situation of workers from France, Japan, Sweden and the UK, the author notes that this phenomenon in contemporary capitalism is becoming as bad or even more, quantitatively, than the structural unemployment. Guillemard points to the inability of security reforms in delaying the retirement age and how these policies around the world are falling into a schizophrenic trap with no chance of reaching the desired fiscal targets. Labour and employment policies, she concludes, seem to be essential to maintain workers active over 55, as well as promoting youth employment.

\textsuperscript{21} The terms globalization and internationalization are many times used as equivalent, but are false synonyms. The first originates in business schools of North America and the second is the development of French economists (mundialization). Those who coined the first, conceive the contemporary world as a plan globe and assume that all economic agents have equal opportunity to compete; those who use the second, view that the world is a hierarchical space, whose rules are those that most the central capitalist powers agree. See Chesnais (1996, p. 24).

\textsuperscript{22} "Sufficient and quality employment " is a common expression in Labour Economics. It means creating jobs in the formal sphere, according to the labour laws, ensuring social protection, and quantity to meet the increase in labour supply derived from the demographic dynamics.

\textsuperscript{23} From 1970 to 2003, the world experienced 124 financial crises in the counting of the International Monetary Fund – IMF (Stiglitz, 2010, p. 13).
A committed legislation to seize the opportunities of an aging society, warns the author, must have their cannons targeted to encourage the employability of workers over 55 and not for retirement in a certain age - not least, as this is increasingly relative as for the labour capacity, currently unrelated from chronological steps\(^{24}\). The laws of the countries analyzed by the author only increased the tension in the labour market and accentuated the trend advocated by authors, to transform the elderly workers in the Marxist reserve army, mobilized according to the market needs and at the mercy of the economic pace for over 20 years. From the individual's point of view, this "permanent selection" feeds a sense of self-exclusion expressed in phrases like "I’m over the age" or "It is not an opportunity for my age."

The "weakening of the second half of the career" thus strengthens the vulnerability of the elderly person who wants or needs to remain in the labour market for income reasons or to meet the eligibility criteria for retirement. Since 1990, it appears that the growth of "self-employed" is less a burst of a national entrepreneurial spirit than the only alternative left for many mature workers. From this complex picture of changes in the class structure, but also from social, political, ideological, evaluative relations, etc., a diverse group of workers is born, which one can cite the "part-time workers", the "temporary workers" the "casual workers", the "self-employed workers", among other examples, setting up what Beynon to discuss, suggestively, characterized as hyphenated workers already quite popular in the sociology of work international literature and which affects primarily the elderly\(^{25}\).

This fact greatly reduces the effective possibilities, so propagated by the media when addressing the aging or longevity, to build a new career after 60. This supposed "reinvention", which would be accessible to all, regardless of educational level, income and of the working path, becomes a myth. At least from the point of view of income generation, since the entry into the labour market at the end of the active life suffers the effects of changes in the capitalist process of the 21\(^{st}\) century. Additionally these effects have been greater for women, as we will see further.

5 - The female participation
The process of women entering the labour market, as defined by Esping-Andersen (2009), is an "incomplete revolution." Laws around the world are still insufficient to ensure equal opportunities and conditions between genders. The difference in treatment, says the author, citing several studies, is considered the largest cause hypothesis for the aging of population on the planet, as is seen as the protagonist in the fall in the fertility rate. What matters here is to note, along with extensive literature, the Brazilian labour legislation and flaws for the elderly protection were unable to ensure the labour force of female workers with more than 60 years a level of participation on equal levels in business organizations. This asymmetry, as noted by Hirata (2002), appears not only in daily life and in the rules of the work itself, but in the continuum, featuring a disparate labour cycle between women

\(^{24}\) See Camarano et al., 2012.

\(^{25}\) Discussing the effects of duration of neoliberalism in the British working population, this author states: “They are the hyphenated workers in a hyphenated economy. The old industrial British economy was highly regulated; it employed large numbers of highly unionized workers, employed in full-time contract” (Beynon, 1995).
and men. The crisis and unemployment therefore penalizes more female labour as it is more vulnerable to disruption.

In a comparative research with developed countries, Hirata also shows that, in the contemporary capitalism, the combined effects of social, sexual and international labour division, place the Brazilian worker in a greater disadvantage in the global competition of labour force. In the same factory with production facilities in France and Brazil, while European workers were entitled to retraining, Brazilian remained without training. Despite that the author warns that the global trend was that all lose this entitlement (again under the Asian propulsion in these labour mutations), the fact is that only the State can act to guarantee it, as tracking the technological advances is imperative to remain in the market governed by the knowledge society.

The issue of gender unquestionably spills on the weakening in the second half of the career and early exit from the active life. The sexual division of labour weakens the chances of the female worker with more than 60 years to extend the working life. Despite women being benefited by the accumulation of pension and retirement - which could explain the lower share of them in the labour market in the elderly stage - the characteristics of all her labour cycle interferes with the retirement decision or inactivity (even after retired). In other words, although many surveys highlight only the highest/lowest income in relation to man, all the labour history and discrimination in the market, also play a role in the decision to withdraw from the market. In 1992, 70% of elderly men had professional activities, in 2002 and 2012 these percentages dropped to 66% and 62%, respectively. While for women, the proportion was 25%, 32% and 25%.

Formal employment for women falls already from 25 years of age, and after 55, it remains in less than 20% of workers. From 45 to 49 years, only 28% of them work. After 60 years, less than 10% are able to work in the CLT (formal) regime. Another important data is that in the career of women, starting from 70 years, the "work for their own consumption" reaches 45% of the total. Even more serious is that, among women, this kind of work, which implies in exclusion from organizational or even formal sector, grows since 15 years of age. In other words, throughout the working life this is the only ever-ascending occupation of the female universe. Added to this situation, the importance of the "self-employment", which, from the 50 years, reaches 20%, then after 60, hits 30%.

Esping-Andersen (2009) warns for the consequences of gender inequality in the aging society, where the State imposes limitations to pensions in the name of fiscal balance and the women live longer. According to the author, this asymmetry aggravates the "unstable equilibrium" of contemporary economy and pushes fertility rates to even lower levels, accentuating the process of population aging. It is necessary, therefore, a State legal recognition of the end of the model of the "male breadwinner" through a new gender-equality equilibrium. The author also claims that this balance, as well as the expansion of opportunities and policies for the maintenance of women in the labour market, has been constituted as important measures to reduce pressure on pension systems in European countries.

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26 PNAD, according to Santos and Barbosa, 2014. For income differences between men and women, see Summary of Social Indicators of IBGE.

27 Standing, analyzing the new class of the "precariat", maintains that the female labour force is penalized, today, by a triple burden when it is responsible for the care of children, home-keeping and the care of elderly in the family, thus assuming the role of breadwinner (2011, p. 62).
6 - The preparation for retirement

The planned retirement is one of the most important elements in building the Longevity Economy (Sylver Economy), mainly in European countries, USA and Japan. The literature confirms that public policy, legislation and private sector combined can mitigate the effect of "weakening the second half of the career "and result in the extension of working life, i.e. the postponement of the retirement age, with a positive impact on social security systems. In Brazil, however, although the PNI has been in Congress until a few months before Congressmen begun the discussion for the security reform in 1995, the two laws were voted without establishing any dialogue between them, much less with the labour legislation. Thus, none of these legal marks determines an effective and systematic action of the State to promote retirement planning programs.

Since the 1980s, France, for example, adopts public devices in order to reverse the trend of unemployment or underemployment from 55 years, establishing alternative ways, in terms of tax, wage and social benefits, i.e. in relation to the employment contract. Partial maintaining the employment for mature workers, flexible hours, telecommuting are ways to reduce the transition to inactivity or postpone it. The legislation allows even the part-time employee or in a situation of "pre-retirement progression" is entitled to a unemployment insurance also for partial a period. On the other hand, companies have flexibility in labour laws to hire young people under 26 years. These devices are generally used by companies that decide to reduce its staff or have a more limited ability to employ. Although the metamorphoses in the world of work, the breakdown of employment and fiscal austerity policies have hit this legislation of stimulus to progressive retirement always justified by the costs – the results were verified in practice, with the increase in adhesions and more planning and retention of senior workers in the market, in the mid-1990s, as noted Guillemard (2010, p. 137).

In Brazil, the laws, as said, acted independently and the business companies are to this day, far from this venture. Preparation programs for retirement are detected in isolation, without any regulation, therefore, no obligations. The adoption of retirement planning plans is more related to the company's intention to "get rid of an employee" which delays the shutdown of the organization by age or time of contribution, than aiming to provide a transition without trauma, guarded or with new possibilities. In rare cases these programs are adopted taking into account differences in skills within the three types appointed by the French report of Longevity Economy: weak, outdated and expert. When there is this division, there is a clear advantage for the latter type, usually the executive.

Such programs are much lesser used as a mean linked to the fiscal target for social security. In most companies, preparation programs for retirement are perceived as bonus or indirect salary. A benefit of human resources that would benefit the employee without a correlation with society. With no connection, for example, with tax benefits for a future entrepreneur, with continuing education public institutions, with funding agents or with the Brazilian SUS (Unified Health System) that could act with prevention programs and medical and psychological assistance.

It stands out here that this is a point to demand, even in the case of Brazil, empirical research and discussion to find the appropriate model. As we will see below, the preparation for retirement was mentioned in the PNI almost as an obligation without referring to any regulatory law. These and other aspects of Article 10 of the PNI require more detailed analysis, which will be done in the following section.
7 – The Article 10: a brief economic analysis

Given the above in the previous sections, one can risk an analysis from an economic point of view, of the Article 10 of the PNI, which deals with the areas of labour and social security. It is legitimate so suppose the Brazilian legislators ignored any possibility of social gain with the demographic dynamics that knocked at the door already in the early 1990s. The fact that individuals lived more in the contemporary society was interpreted almost exclusively in the aspect of human aging in detriment to population aging. The concern with the guarantee of rights of the elderly was restricted only to legislative action and a statute aimed at the construction of a new economic structure due to the phenomenon was abdicated. Far from expecting to give the legislation the power of social transformation, the point is that the text is silent in the face of the size of the economic challenge and the answers to be given by the State.

One of the questionings, if the preference is for the fiscal perspective, it is precisely the need for postponement of the retirement and, therefore, the inclusion of elderly worker. In this aspect, the PNI little determines but a fluid "guarantee mechanisms to prevent discrimination of the elderly" in the labour market. Who guarantees? What "mechanisms"? How to secure them economically? Except for the prohibition of age discrimination for public tender, the item "a" of the PNI effectiveness is of dubious, as it has been shown in the literature and empirical research cited above. Corroborating with the welfare vision that prevailed in the writing, the item "b" is almost a hyperbole when it states "give priority to elderly care in social security benefits." If the social security serves mostly the elderly, the priority of other beneficiaries would be a contradiction in itself. Yet, the determination of this item has never prevented the poor service from the public offices to the retired, pensioners and other elderly beneficiaries or not, as can be easily proven by public prosecutors across the country and recurrently reported by the press.

These two items would be sufficient to defend a thesis of text disarray in Article 10 with a vision of Longevity Economy. It is in "c", however, which reserves greater care for the analysis of wasted chances. "Create and encourage the maintenance of preparation programs for retirement in the public and private sectors with a minimum of two years before the withdrawal", it said. As previously mentioned, without referring to regulatory law, without creating sanctions, therefore, without specifying the "how", the law assigns to the market (or to the government at the occasion) all voluntarism in creating these programs and to whom they should serve or benefit inside, above all, the private company.

A relevant data for this analysis is the two-year period established in the PNI28. Ahead of the transformations of the labour world, as seen, it is impossible any kind of planning, "reinvention", educational reprogramming, training, and investment in this period with the conditions imposed by contemporary capitalism. Increasingly, occupations require continuous preparation during the entire working life. International competition intensifies competitiveness, determines productivity stages that require time to mature. Working with a short perspective of two years, it is to be submitted to the time of the capital. But not of the work. Therefore, preparation for the post-working life occurs, at this said postmodern stage, parallel to the active life. As Esping-Andersen says (2009, p. 162), "the pension reform should begin with the babies".

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28 It should be noted that the Art. 28 of the Elderly Statute, Entry II, modifies this obligation and reduces this period to one year, “II - preparing workers for retirement, with at least one (1) year, through encouraging new social projects, according to their interests, and informing the social and citizenship rights.”
In accordance to the global trend, it is necessary to promote changes in legislation in the light of a perspective to take advantage of the economic opportunities arising from the aging - human and population. This target must walk alongside the guarantee of rights and social protection, indispensable in an unequal country like Brazil. But the Article 10 of the PNI demonstrates that, so far, our legislation ignores this economic potential, which can offer growth solutions to the demographic challenge, if the State, through the regulation is efficient to act as the inductor and not only as a partner with compulsory obligations. With the intention to provoke this transformation, which is done in the next section, possible indications to be studied in terms of public policies in the labour area.

8 – Final Considerations

The level of participation of the Brazilian elderly in the labour market between 1992-2012, as seen, is considered high, mainly when compared to other countries, especially Europeans. One explanation is the reduction of the stock of available labour due to the accelerated trend of population decrease in active age, which will have its peak in 2040 (Camarano, 2014, p.191). Other reasons are the need for additional income, early retirement, good health status and preference for maintaining the sociability network in the work environment.

However, the underlying assumption is that the high participation of elderly labour is cyclical and dependent almost exclusively on the performance of the economy, i.e. the level of employment. Under no circumstances should this absorption of elderly labour to elderly be attributed to PNI as from 1992 to 2012 there has been a 12% decline in the share of elderly in the labour market, relatively to the growth of the elderly population. In other words, there are more elderly in the labour market, however, due to the aging population, there is a greater labour offer that is not being absorbed by the market, anticipating the phase of inactivity of many workers. When absorbed, the elderly labour is vulnerable and has a marginal inclusion in the economic activity in various informality ways.

Therefore, it will be necessary to review the current legislation, in the case the PNI, to create an integration of this with the social security regulations and the labour laws. As shown in previous sections, the PNI lacks effectiveness to ensure the employability of mature workers (from 50 years), its "safe integration" in the labour market and to prevent the trend of the "weakening of the second half of the career" that will undermine the sustainability in old age, and especially the eligibility criteria for retirement. Nor does this legislation can be identified as responsible for stimulating the postponement of retirement or preparation for this post-working phase, since this role is fully delegated to the private sector, abstaining the law to mention or explain "how" these actions should be undertaken.

In short, the PNI is in total disagreement with the economic and demographic reality in sight for Brazil if we use as a parameter what occurs in the labour market of older countries. The legal text keeps remnants of a purely paternalistic view of the aging phenomenon in disagreement with the current level and understanding of the international debate, directed to the construction of Longevity Economy (Sylver Economy). A promising legislation as beginning to adopt some developed countries, should research actions within the economy itself and not only delegate "solutions" to the care plan. This new approach would require the involvement of the ministries of the economic area (Planning, Finance
and Development, Industry and Commerce) with the theme of population aging outside from the fiscal vision only, something yet far from the Brazilian reality.  

Local and foreign researchers warn to the risk of seeking to adopt a unique global recipe to avoid early retirement and/or extend the inclusion of elderly workers. However, from international experiences, Brazil can forge public policies tailored to its specific needs. First of all, there is consensus among researchers, and registered in extensive bibliography, the rate of employability of mature workers is strongly correlated with the educational level (Guillemard, 2010, p. 331), and further, with the capacity and political will of governments to form a sort of national network with the private sector to foster people management actions in line with the concept of “society for all ages”.

Thus, the following points are presented as suggestions or recommendations for the discussion of public policies, and from social movements’ leaderships of elderly and workers, as follows:

a) Establishment of stimulus program for continuing education, especially from the age of 35, with some kind of tax incentive for companies to encourage workers to improve their skills, either technical and/or academic, and creating specific credit lines;

b) Strengthening and priority to literacy programs and adult and young education, especially focusing on so-called “functional illiteracy” and “digital illiteracy”;

c) Adoption by public educational institutions and private institutions, of courses on population aging and its correlation with people management for managers and directors;

d) Change text item “c” of art. 10, IV of Law replacing "with at least two years before the withdrawal“ to “throughout the working phase”;

e) Research, with a view to the adoption of a specific industrial policy, sectors with greater employability capacity and demand for skills of older workers;

f) Encouraging companies to adopt flexible hours, pre-retirement or partial retirement, among other ways to enable a cautious exit from the labour market, with these initiatives recognized by labour legislation;

g) Adopting an occupational health policy to reduce the alarming contingent retirements due to disability (CAMARANO, 2013);

h) A legislation to stimulate employment from the age of 50, in order to avoid the weakening of the second half of career;

i) Establishment of differentials of delaying retirement policies or preparation for inactivity according to differentials types of workers (fragile, outdated or expert).

Recognizing aging as an achievement moves from building mechanisms for the expansion of the capability (competence) of the elderly people to contribute to the society

29 The Ministries of Finance and of Development, Industry and Trade do not participate in the Comissão interministerial Compromisso Nacional para o Envelhecimento Ativo (Interministerial Committee National Commitment for Active Aging) formed by the President of the Republic on October 1, 2013 (Decree No. 8.114 / 2013). The fact leads us to believe that the government excludes the hypothesis that population aging can offer economic possibilities. In the minutes of the committee meeting, the purpose of the group is to discuss public policies “aimed at care of the elderly population”, thus revealing a purely welfare interpretation.

30 It refers here to the employability promotion models adopted in Sweden, the Netherlands and especially Finland, which obtained the best results. See Guillemard, 2010.

31 It is noteworthy that this was one of the main pillars of the Finnish model (Guillemard, 2010: 330).
and ensuring the employability of the mature worker (from 50 years), on equal conditions of opportunities and resources.

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