

## **Brazil - Racial Discrimination in Employment: International and National Laws**

This document outlines (i) Brazilian anti-discrimination and equality laws with a focus on racial discrimination in employment, and (ii) the international and regional multilateral treaties and documents that were ratified by Brazil containing provisions that aim to protect the rights to equality and anti-discrimination, including in connection with employment.

We are grateful to Covington & Burling LLP for preparing this document on a pro bono basis. Their contribution is extremely relevant to disseminating information on equality and anti-discrimination laws.

This document was last updated in September 2009.

\*

This publication is designed to provide accurate information in regard to the subject matter covered, but does not constitute legal advice. It is distributed with the understanding that the publisher is not engaged in rendering legal, accounting or other professional services. If legal advice or other expert assistance is required, the service of an attorney or other competent professional person should be sought. While every attempt has been made to provide accurate information, neither the author nor the publisher can be held accountable for any error or omission.

Title: Constitution of the Federative Republic of Brazil

Date legislation was first published (adopted): **5 October 1988.**

External URL: <http://www.planalto.gov.br/ccivil/03/Constituicao/Constituicao.htm>

Summary: The external URL above contains the full text of the **Constituição da República Federativa do Brasil**, enacted by the **National Constituent Assembly**. It was adopted on **5 October 1988** and has been in force since this date.

Content:

- The Constitution's preamble states that the Constitution was promulgated with the purpose of ensuring the exercise of social and individual rights, liberty, security, well-being, development, equality and justice as supreme values of a fraternal, pluralist and unprejudiced society, founded on social harmony and committed, in the internal and international orders, to the peaceful settlement of disputes.
- The Constitution is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:
  - (i) Article I, subclauses III and IV, provides that the Federative Republic of Brazil is a legal democratic state founded on the dignity of the human person and the social values of labor and of free enterprise.
  - (ii) Article 3, subclause IV, provides that one of the fundamental objectives of the Federative Republic of Brazil is to promote the well-being of all, without prejudice as to origin, race, sex, color, age or any other form of discrimination.
  - (iii) Article 4, subclause VIII, provides that the international relations of the Federative Republic of Brazil are governed, among other principles, by the repudiation of terrorism and racism.
  - (iv) Article 5 provides that all persons are equal before the law, without any distinction whatsoever. Its subclause XLII provides that the practice of racism is a non-bailable crime, with no statute of limitations, subject to the penalty of imprisonment, under the terms of the law.
  - (v) Article 7, subclause XXX, prohibits any difference in wages, in the performance of duties and in the hiring criteria of urban and rural workers by reason of sex, age, color or marital status.

Title: Decree-Law No. 5,452 - Consolidation of Labor Laws

Date legislation was first published (adopted): **1 May 1943.**

External URL: [http://www.planalto.gov.br/ccivil\\_03/Decreto-Lei/Del5452.htm](http://www.planalto.gov.br/ccivil_03/Decreto-Lei/Del5452.htm)

Summary: The external URL above contains the full text of the **Decreto-Lei No. 5,452/43 - Consolidação das Leis do Trabalho**, approved by the **President of the Federative Republic of Brazil**. It was adopted on **1 May 1943** and has been in force since **10 November 1943**.

Content:

- This decree-law consolidates all labor laws that regulate labor relationships in Brazil.
- This Act is relevant to the right to non-discrimination and equality in the area of employment because, in connection with the protection of women workers, Article 373-A prohibits (i) publishing job offer announcements that contain any reference to sex, age, color or family status, except when the nature of the activities to be performed clearly requires such reference; (ii) denying employment or promotion or causing dismissal from employment by reason of sex, age, color, family status or pregnancy, except when the nature of the activities to be performed are clearly incompatible with employment of the relevant person; (iii) taking into account sex, age, color or family status as a determinative factor in establishing compensation, professional formation and opportunities for professional development; (iv) requesting a medical statement or test, of any nature, to confirm sterility or pregnancy in connection with the admission to, or continuity in, a job; (v) restricting access or otherwise adopting subjective criteria to accept registration or approval in entrance exams, in private companies, by reason of sex, age, color, family status or pregnancy; and (vi) the performance by the employer or its representatives of intimate inspections on female employees or workers. Article 373-A further states that its provisions should not restrict the adoption of temporary measures aiming to establish equality policies between men and women, in particular policies that aim to correct distortions that affect professional formation, access to employment and general work conditions of women.

Title: Decree-Law No. 2,848/40 - Penal Code

Date legislation was first published (adopted): **7 December 1940**

External URL: <http://www.planalto.gov.br/ccivil/03/Decreto-Lei/Del2848.htm>

Summary: The external URL above contains the full text of the **Decreto-Lei No. 2,848/40 - Penal Code**, enacted by the **President of the Federative Republic of Brazil**. It was adopted on **7 December 1940** and has been in force since **1 January 1942**.

Content:

- The overall purpose of this law is to define and categorize criminal offenses and set forth their respective punishments.
- This Act is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) In connection with the crime of slander (*injúria*), Article 140, Paragraph 3, provides that if the slander consists of defamatory statements alluding to race, color, ethnic group, religion, origin, or to the fact that the person is elderly or has physical disabilities (*injúria racista* or racist defamation or actionable words), the applicable penalty shall be increased to imprisonment from one to three years (instead of the penalty of imprisonment from one to six months that applies to regular slander) and imposition of a fine.

(ii) In connection with the crime of slavery (e.g., forced or compulsory labor, demeaning working conditions, exhaustive working hours), Article 149, Paragraph 2, provides that the penalty for the crime of slavery shall be increased by half if the crime is committed by reason of race, color, ethnic group, religion or origin. The penalty applicable to the crime of slavery is imprisonment from two to eight years and imposition of a fine (in addition to any other penalty that may be applicable as a result of the use of violence).

Title: Law No. 7,716/89

Date legislation was first published (adopted): **5 January 1989**

External URL: <http://www.planalto.gov.br/ccivil/03/Leis/L7716.htm>

Summary: The external URL above contains the full text of the **Lei No. 7,716/89**, enacted by the **President of the Federative Republic of Brazil**. It was adopted on **5 January 1989** and has been in force since this date.

Content:

- The overall purpose of this law is to define the crimes resulting from race and color discrimination and set forth their respective punishments.
- This Act is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article 1 provides that crimes resulting from discrimination or prejudice by reason of race, color, ethnic group, religion or national origin shall be punished according to Law No. 7,716/89.

(ii) Article 3 provides that preventing or hindering access of any person who is duly qualified to any position in the Direct or Indirect Public Administration as well as in any public service concessionaires for reasons of discrimination or prejudice shall be punishable by the penalty of imprisonment from two to five years.

(iii) Article 4 provides that denying or hindering employment in a private company for reasons of discrimination or prejudice shall be punishable by the penalty of imprisonment from two to five years.

(iv) Article 20 provides that practicing, inducing or inciting discrimination or prejudice on the basis of race, color, ethnic group, religion or national origin shall be punishable by the penalty of imprisonment from one to three years and the imposition of a fine. Paragraph 2 of Article 20 provides that if any of the crimes described in this paragraph (iii) are committed through the use of mass media or publications of any nature, the penalty shall be aggravated to imprisonment from two to five years and the imposition of a fine.

Title: Law No. 9,029/95

Date legislation was first published (adopted): **13 April 1995**

External URL: <http://www.planalto.gov.br/ccivil/03/Leis/L9029.htm>

Summary: The external URL above contains the full text of the **Lei No. 9,029/95**, enacted by the **President of the Federative Republic of Brazil**. It was adopted on **13 April 1995** and has been in force since this date.

Content:

- The overall purpose of this law is to prohibit the adoption of any form of discrimination in connection with the general access to employment.
- This Act is relevant to the right to non-discrimination and equality in the area of employment in a number of ways, including:

(i) Article 1 prohibits the adoption of any discriminatory or limiting practice in connection with access to employment, or its continuity, by reason of sex, origin, race, color, marital status, family status or age.

(ii) Article 3 provides that violation of Law No. 9,029/95 may result in administrative fines equivalent to ten times the higher salary paid by the employer (plus 50% in case of recidivism) and prohibition from obtaining any loan or financing with official/governmental financial institutions.

(iii) Article 4 provides that disruption of an employment relationship on the basis of a discriminatory act under the terms of Law No. 9,029/95 gives the employee the right to opt between (i) his/her readmission to work and the receipt of an amount equivalent to his/her salary for the period during which he/she was terminated, or (ii) the receipt of twice the amount equivalent to his/her salary for such period.

Title: Law No. 9,455/97

Date legislation was first published (adopted): **7 April 1997**

External URL: <http://www.planalto.gov.br/ccivil/03/Leis/L9455.htm>

Summary: The external URL above contains the full text of the **Lei No. 9,455/97**, enacted by the **President of the Federative Republic of Brazil**. It was adopted on **7 April 1997** and has been in force since this date.

Content:

- The overall purpose of this law is to define the crime of torture and set forth its respective punishments.
- This Act is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment because, when defining the crime of torture, Article 1, subclause I, c) states that it shall constitute the crime of torture to embarrass someone through the use of violence or great threat causing such person physical or mental suffering by reason of racial or religious discrimination. The applicable penalty is imprisonment from two to eight years. Paragraph 2 of Article 1 provides that whoever omits to prevent or investigate any of the prohibited conducts described in such article when having the duty to do so may be imprisoned from one to four years.

**Anti-Discrimination and Equality Laws in Brazil**  
**Racial Discrimination in Employment**  
**Summary of International and Regional Law**

Title: International Convention on the Elimination of All Forms of Racial Discrimination

Date legislation was first published (adopted): **Adopted and opened for signature and ratification by Resolution 2,106 (XX) of the General Assembly of the United Nations on 21 December 1965.**

External URL: <http://www2.ohchr.org/english/law/cerd.htm>

Summary: The external URL above contains the full text of the **International Convention on the Elimination of All Forms of Racial Discrimination** of the **Office of the High Commissioner for Human Rights**. It was adopted on **21 December 1965** and has been in force since **4 January 1969**. It was ratified by Brazil on **27 March 1968** and promulgated by **Decree No. 65,810**, dated **8 December 1969**.

Content:

- The overall purpose of this Convention is to commit States Parties to the elimination of all forms of racial discrimination and the promotion of understanding among all races.
- This Convention is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article 1 defines “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life”.

(ii) Article 2 provides that States Parties shall condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races.

(iii) Article 3 provides that “States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.”



(iv) Article 4 provides that “States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia: (a) [s]hall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof; (b) [s]hall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law; (c) [s]hall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.”

(v) Article 5(e)(i) provides that States Parties shall undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment, among other rights, of economic, social and cultural rights, in particular the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, and to just and favourable remuneration.

Title: ILO Convention concerning Discrimination in Respect of Employment and Occupation - C111

Date legislation was first published (adopted): **Adopted on 25 June 1958.**

External URL: <http://www.ilo.org/ilolex/english/convdisp1.htm>

Summary: The external URL above contains the full text of the **Convention concerning Discrimination in Respect of Employment and Occupation - C111** of the **General Conference of the International Labour Organization**. It was adopted on **25 June 1958** and has been in force since **15 June 1960**. It was ratified by Brazil on **26 November 1965** and promulgated by **Decree No. 62,150**, dated **19 January 1968**. It has been in force in Brazil since **26 November 1966**.

Content:

- The overall purpose of this Convention is to adopt certain proposals with regard to discrimination in the field of employment and occupation.
- This Convention is relevant to the right to non-discrimination and equality in the area of employment in a number of ways, including:

(i) Article 1 defines “discrimination” as including “any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation” and “such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.”

(ii) Article 2 provides that each Member shall declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

(iii) Article 3 provides that “[e]ach Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice:

(a) to seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy;

(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;

(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;

(d) to pursue the policy in respect of employment under the direct control of a national authority;

(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;

(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.”

Title: ILO Convention concerning Basic Aims and Standards of Social Policy - C117

Date legislation was first published (adopted): **Adopted on 22 June 1962.**

External URL: <http://www.ilo.org/ilolex/english/convdisp1.htm>

Summary: The external URL above contains the full text of the **Convention concerning Basic Aims and Standards of Social Policy - C117** of the **General Conference of the International Labour Organization**. It was adopted on **22 June 1962** and has been in force since **23 April 1964**. It was ratified by Brazil on **24 March 1969** and promulgated by **Decree No. 66,496**, dated **27 April 1970**. It has been in force in Brazil since **24 March 1970**.

Content:

- The overall purpose of this Convention is to adopt certain proposals with regard to social policies to promote the well-being and development of the population.
- This Convention is relevant to the right to non-discrimination and equality in the area of employment in a number of ways, including:

(i) Article 14, subclause I, provides that “[i]t shall be an aim of policy to abolish all discrimination among workers on grounds of race, colour, sex, belief, tribal association or trade union affiliation in respect of: (a) labour legislation and agreements which shall afford equitable economic treatment to all those lawfully resident or working in the country; (b) admission to public or private employment; (c) conditions of engagement and promotion; (d) opportunities for vocational training; (e) conditions of work; (f) health, safety and welfare measures; (g) discipline; (h) participation in the negotiation of collective agreements; and (i) wage rates, which shall be fixed according to the principle of equal pay for work of equal value in the same operation and undertaking.”

(ii) Article 14, subclause II, provides that all practicable measures shall be taken to lessen, by raising the rates applicable to the lower-paid workers, any existing differences in wage rates due to discrimination by reason of race, colour, sex, belief, tribal association or trade union affiliation.

Title: ILO Employment Policy Convention - C122

Date legislation was first published (adopted): **Adopted on 9 July 1964.**

External URL: <http://www.ilo.org/ilolex/english/convdisp1.htm>

Summary: The external URL above contains the full text of the **Employment Policy Convention - C122** of the **General Conference of the International Labour Organization**. It was adopted on **9 July 1964** and has been in force since **15 July 1966**. It was ratified by Brazil on **24 March 1969** and promulgated by **Decree No. 66,499**, dated **27 April 1970**. It has been in force in Brazil since **24 March 1970**.

Content:

- The overall purpose of this Convention is to adopt certain proposals with regard to employment policy.
- This Convention is relevant to the right to non-discrimination and equality in the area of employment in a number of ways, including:

(i) Article 1 provides that “[w]ith a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements and overcoming unemployment and underemployment, each Member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment. The said policy shall aim at ensuring that: (a) there is work for all who are available for and seeking work; (b) such work is as productive as possible; (c) there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin. ...”

Title: ILO Employment Promotion and Protection against Unemployment Convention - C168

Date legislation was first published (adopted): **Adopted on 21 June 1988.**

External URL: <http://www.ilo.org/ilolex/english/convdisp1.htm>

Summary: The external URL above contains the full text of the **Employment Promotion and Protection against Unemployment Convention - C168** of the **General Conference of the International Labour Organization**. It was adopted on **21 June 1988** and has been in force since **17 October 1991**. It was ratified by Brazil on **24 March 1993** and promulgated by **Decree No. 2,682**, dated **21 July 1998**. It has been in force in Brazil since **23 March 1994**.

Content:

- The overall purpose of this Convention is to adopt certain proposals with regard to employment promotion and protection against unemployment.
- This Convention is relevant to the right to non-discrimination and equality in the area of employment in a number of ways, including:

(i) Article 2 provides that “[e]ach Member shall take appropriate steps to coordinate its system of protection against unemployment and its employment policy. To this end, it shall seek to ensure that its system of protection against unemployment, and in particular the methods of providing unemployment benefit, contribute to the promotion of full, productive and freely chosen employment, and are not such as to discourage employers from offering and workers from seeking productive employment.”

(ii) Article 6, subclause 1, provides that “[e]ach Member shall ensure equality of treatment for all persons protected, without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, nationality, ethnic or social origin, disability or age.”

(iii) Article 7 provides that “[e]ach Member shall declare as a priority objective a policy designed to promote full, productive and freely chosen employment by all appropriate means, including social security. Such means should include, inter alia, employment services, vocational training and vocational guidance.”

(iv) Article 8, subclause 1, provides that “[e]ach Member shall endeavour to establish, subject to national law and practice, special programmes to promote additional job opportunities and employment assistance and to encourage freely chosen and productive employment for identified categories of disadvantaged persons having or liable to have difficulties in finding lasting employment such as women, young workers, disabled persons, older

workers, the long-term unemployed, migrant workers lawfully resident in the country and workers affected by structural change.”

Title: Charter of the Organization of American States

Date legislation was first published (adopted): **Adopted on 30 April 1948.**

External URL: <http://www.oas.org/juridico/English/charter.html>

Summary: The external URL above contains the full text of the **Charter of the Organization of American States** adopted at the **Ninth International Conference of American States**. It was adopted on **30 April 1948** and has been in force since **13 December 1951**. It was ratified by Brazil on **2 November 1950** and promulgated by **Decree No. 30,544**, dated **14 February 1952**.

Content:

- According to its Article 1, “[t]he American States establish by this Charter the international organization that they have developed to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence.”
- This document is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article 3, subclause (l), provides that “[t]he American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex.”

(ii) Article 34, subclause (g), provides that “[t]he Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development. To achieve them, they likewise agree to devote their utmost efforts to accomplishing the following basic goals: ... (g) [f]air wages, employment opportunities, and acceptable working conditions for all.”

(iii) Article 45, subclauses (a) and (b), provides that “[t]he Member States, convinced that man can only achieve the full realization of his aspirations within a just social order, along with economic development and true peace, agree to dedicate every effort to the application of the following principles and mechanisms: a) [a]ll human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security; b) [w]ork is a right and a social duty, it gives dignity to the one who performs it, and it should be performed under conditions, including a system of fair wages, that ensure life, health, and a decent standard of living for the worker and his family, both



during his working years and in his old age, or when any circumstance deprives him of the possibility of working; ...”

Title: American Declaration of the Rights and Duties of Man

Date legislation was first published (adopted): **Adopted on 30 April 1948.**

External URL: <http://www.cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm>

Summary: The external URL above contains the full text of the **American Declaration of the Rights and Duties of Man** adopted at the **Ninth International Conference of American States**. It was adopted on **30 April 1948** and has been in force since such date. It was signed by Brazil on **30 April 1948**.

Content:

- According to its introduction, “[t]he international protection of the rights of man should be the principal guide of an evolving American law.” The American Declaration of the Rights and Duties of Man is the first international human rights instrument of a general nature, predating the Universal Declaration of Human Rights. Although it is not a legally binding treaty, the jurisprudence of both the Inter-American Court of Human Rights and the Inter-Commission on Human Rights holds it to be a source of binding international obligations for the Member States of the Organization of American States. It has been largely superseded by the more elaborate provisions of the American Convention on Human Rights.
- This Declaration is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article II provides that “[a]ll persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.”

(ii) Article XIV provides that “[e]very person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit. Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family.”

Title: American Convention on Human Rights - Pact of San José, Costa Rica

Date legislation was first published (adopted): **Adopted on 22 November 1969.**

External URL: <http://www.oas.org/juridico/English/treaties/b-32.html>

Summary: The external URL above contains the full text of the **American Convention on Human Rights** adopted at the **Inter-American Specialized Conference on Human Rights**. It was adopted on **22 November 1969** and has been in force since **18 July 1978**. It was ratified by Brazil on **9 July 1992** and promulgated by **Decree No. 678**, dated **6 November 1992**. It has been in force in Brazil since **25 September 1992**.

Content:

- According to its preamble, the purpose of this Convention is "to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man."
- This Convention is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article 1 provides that "[t]he States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition."

(ii) Article 24 provides that "[a]ll persons are equal before the law. Consequently, they are entitled, without discrimination, to equal protection of the law."

(iii) Article 26 provides that "[t]he States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires."

Title: Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights - Protocol of San Salvador

Date legislation was first published (adopted): **Adopted on 17 November 1988.**

External URL: <http://www.oas.org/juridico/English/treaties/a-52.html>.

Summary: The external URL above contains the full text of the **Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights** of the **General Assembly of the Organization of American States**. It was adopted on **17 November 1988** and has been in force since **16 November 1999**. It was ratified by Brazil on **8 August 1996** and promulgated by **Decree No. 3,321**, dated **30 December 1999**.

Content:

- The purpose of this Protocol is to take the inter-American human rights system to a higher level by enshrining its protection of second-generation rights in the economic, social, and cultural spheres. The Protocol's provisions cover such areas as the right to work, the right to health, the right to food, and the right to education.
- This Protocol is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:
  - (i) Article 3 provides that “[t]he State Parties to this Protocol undertake to guarantee the exercise of the rights set forth herein without discrimination of any kind for reasons related to race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.”
  - (ii) Article 6, subclause 1, provides that “[e]veryone has the right to work, which includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity.”
  - (iii) Article 7 provides that State Parties undertake to guarantee to every person the right to just, equitable and satisfactory conditions of work.

Title: Charter of the United Nations

Date legislation was first published (adopted): **Adopted on 26 June 1945.**

External URL: <http://www.un.org/en/documents/charter/>

Summary: The external URL above contains the full text of the **Charter of the United Nations** of the **United Nations Conference on International Organization**. It was adopted on **26 June 1945** and has been in force since **24 October 1945**. It was ratified by Brazil on **12 September 1945** and promulgated by **Decree No. 19,841**, dated **22 October 1945**.

Content:

- The overall purpose of this document is to establish the United Nations, the stated purpose of which is to facilitate cooperation in international law, international security, economic development, social progress, human rights, and the achievement of world peace.
- This document is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article 1, subclause 3, provides that “[t]he purposes of the United Nations are to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”

(ii) Article 55, subclause c), provides that “[w]ith a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

Title: Universal Declaration of Human Rights

Date legislation was first published (adopted): **Adopted on 10 December 1948.**

External URL: <http://www.un.org/en/documents/udhr/>

Summary: The external URL above contains the full text of the **Universal Declaration of Human Rights** of the **General Assembly of the United Nations**. It was adopted on **10 December 1948** and has been in force since **18 July 1978**. It was signed by Brazil on **10 December 1948**.

Content:

- The overall purpose of this Declaration is for governments to commit themselves and their peoples to measures to secure the universal and effective recognition and observance of the human rights set out therein.
- This Declaration is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article 1 provides that all human beings are born free and equal in dignity and rights.

(ii) Article 2 provides that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(iii) Article 7 provides that “[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

(iv) Article 23, subclauses (1), (2) and (3), provides that “(1) [e]veryone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; (2) [e]veryone, without any discrimination, has the right to equal pay for equal work; (3) [e]veryone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.”

Title: International Covenant on Civil and Political Rights

Date legislation was first published (adopted): **Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.**

External URL: <http://www2.ohchr.org/english/law/ccpr.htm>

Summary: The external URL above contains the full text of the **International Covenant on Civil and Political Rights** of the **General Assembly of the United Nations**. It was adopted on **16 December 1966** and has been in force since **23 March 1976**. It was ratified by Brazil on **24 January 1992** and promulgated by **Decree No. 592**, dated **6 July 1992**. It has been in force in Brazil since **24 April 1992**.

Content:

- This Covenant commits its parties to work toward the granting of civil and political rights to individuals, including the inherent right to life, the right to equality, the right to liberty and security of a person, and the right to a fair trial.
- This Covenant is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:

(i) Article 2, subclause 1, provides that “[e]ach State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

(ii) Article 26 provides that “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Title: International Covenant on Economic, Social and Cultural Rights

Date legislation was first published (adopted): **Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966.**

External URL: <http://www2.ohchr.org/english/law/cescr.htm>

Summary: The external URL above contains the full text of the **International Covenant on Economic, Social and Cultural Rights** of the **General Assembly of the United Nations**. It was adopted on **16 December 1966** and has been in force since **3 January 1976**. It was ratified by Brazil on **24 January 1992** and promulgated by **Decree No. 591**, dated **6 July 1992**. It has been in force in Brazil since **24 April 1992**.

Content:

- This Covenant commits its parties to work toward the granting of economic, social, and cultural rights to individuals, including labor rights and rights to health, education, and an adequate standard of living.
- This Covenant is relevant to the right to non-discrimination and equality, and could be applicable in the area of employment in a number of ways, including:
  - (i) Article 2, subclause 2, provides that the States Parties shall guarantee that the rights enunciated in this Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
  - (ii) Article 6, subclause 1, provides that the States Parties recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
  - (iii) Article 7 provides that “[t]he States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:
    - (a) Remuneration which provides all workers, as a minimum, with:
      - (i) [f]air wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work; (ii) [a] decent living for themselves and their families in accordance with the provisions of the present Covenant;
    - (b) Safe and healthy working conditions;



- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- (d ) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”