

Stonewall

ABOUT THIS RESOURCE

This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at www.stonewall.org.uk

Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

BRAZIL



Population: 207+ million people



Stonewall Diversity Champions: 50



THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Brazil is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries sexual acts between people of the same sex are illegal.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The Federal Constitution protects the **rights to freedom of expression, association and assembly** generally.

There are **no LGBT-specific restrictions or additions** to these rights.

FAMILY AND SAME-SEX RELATIONSHIPS

Sexual acts between people of the same sex are **legal**.

There is an **equal age of consent** of 14 years for sexual acts regardless of gender under Section 217-A of the Criminal Code.

Same-sex marriage is legal and same-sex couples can also enter **civil unions**.

These rights were recognised by the Federal Supreme Court in 2011 and in 2013 the National Justice Council passed Resolution No. 175 prohibiting any registry office to refuse to perform marriages or refuse to convert domestic partnerships into marriages between people of the same sex.

Same-sex couples have **equal rights to adopt children** under the Child and Adolescent Statute.

EQUALITY AND EMPLOYMENT

The Federal Constitution states **'all persons are equal before the law**, without any distinction whatsoever' (Article 5), but it **does not explicitly refer to LGBT people**.

The Brazilian Labour Code and Labour Laws **prohibit employment discrimination in regard to several listed aspects**, however **gender identity and sexual orientation are not included** in this list.

Several parts of Brazil, such as **Rio de Janeiro** (2000) and **São Paulo** (2001), have **labour protection laws prohibiting discrimination based on sexual orientation and gender identity**.

Hate crimes based on sexual orientation or gender identity are **not expressly considered aggravating circumstances** in sentencing.

The **use of discriminatory language by public sector actors in regard to gender identity** is **banned** under Decree No 8.727/2016.

GENDER IDENTITY

In March 2018, the Supreme Court ruled that **trans people no longer need to undergo surgery**, provide a **medical report and get a court ruling to change their legal name and/or legal gender** on official records. Instead they can do so by requesting this at the civil registrar's office. The legal gender can only be changed to female or male.

The Federal **Public Administration is required to respect** a trans person's **'social name'** under Decree No 8.727/2016. This means that all public administration records must have the possibility of using the 'social name' alongside the 'civil name'. Trans people can further request the inclusion of their 'social name' on official documents.

In 2013 a **Gender Identity Bill** was introduced to allow trans people to change their legal gender and name without judicial approval. However, the Bill **has not yet been passed as law**.

National health services can perform gender reassignment surgery under Decree No 457/2008, issued by the Ministry of Health.

IMMIGRATION

Dependant visas are, without discrimination, **available for individuals** that are **married** or have entered a **civil union** under Article 3 of Law 13445/2017.

Temporary visas based on family reunion may also be **granted** to a spouse or partner **without any kind of discrimination** under Article 45 of Law 13445/2017.

A VIEW FROM BRAZIL

Toni Reis is the president of Aliança Nacional LGBTI, a network of activists dedicated to promoting and defending the human rights of the LGBTI community in Brazil.



Everyday life

Brazil's culture is contradictory when it comes to LGBT people. The more open-minded parts of society are accepting but a prevailing *machista* culture, which tends to see women as inferior, produces discriminatory, even violent attitudes and reactions towards gender nonconformity and those who break traditional gender roles. The biggest challenges facing LGBT people in Brazil are violence, homicides and increasing religious intolerance. Every year over 300 LGBTI+ people are murdered in Brazil just because they are LGBTI+ and the law provides no specific legal protection.

In larger cities it's easier for LGBT people to be themselves, or to be 'out', than in smaller municipalities, but even in cities LGBT people experience discrimination. A 2017 survey of Curitiba and its surrounding areas found that 84 per cent of LGBT people had suffered discrimination because they were LGBT. 10 per cent had been rejected by their families, and 43 per cent felt they were not fully accepted by their families.

However, we've also seen positive change. Over the last 20 years, LGBT people have become increasingly visible in society. There's been a move away from perceiving LGBT people according to stereotypes and towards understanding differences. This has been helped in particular by soap operas featuring gay, lesbian and trans characters and dealing with the issues seriously. New generations of LGBT people have benefitted from this visibility and also from the efforts of the LGBT movement, including organised Pride events since the mid-1990s. As a result, young people are starting to be less afraid of coming out and being visible in society.

LGBT groups and advocacy

The Brazilian LGBT movement began to organise itself in the late 1970s. Since then, it has suffered setbacks but also celebrated huge successes including some major legal breakthroughs. The Supreme Court ruled in favour of adoption by same-sex couples in 2005. In 2011, it gave equal status to same-sex civil unions, which led to nationwide recognition of same-sex marriage in 2013. In March 2018, the Supreme Court ruled that trans people have the right to gender identity. This means they no longer need to have medical reports, undergo surgery or go to court to get their name and gender changed on official records. Instead they can do so by requesting this at the civil registrar's office.

Despite these successes, in the past seven years, intolerant religious groups have attempted to influence laws and public policy. We're also still fighting for nationwide legislation that prohibits discrimination based on sexual orientation and gender identity. This has been on the agenda of the National Congress since 2001, but has been systematically barred by fundamentalist and reactionary groups within parliament. The movement is also trying to achieve such legal protection through the judicial branch and two cases have now been filed.

Workplace

Equal treatment and opportunities are essential for a decent workplace. However, the 2017 survey of Curitiba and its surrounding areas found that 11 per cent of LGBT people had suffered workplace discrimination. It's also particularly difficult for trans people to find employment. As well as anti-trans workplace prejudice, trans students can find it hard to remain at school because of discrimination, and so often do not have the academic qualifications employers require.

In recent years, several leading companies have started to promote respect for diversity, including sexual and gender diversity. In 2013, the Forum on Companies and LGBT Rights was established, whose members include companies, governments and UN agencies. The forum has opened up the debate and helped to promote respect for LGBT people in the workplace.

Healthcare

Brazil has had a national policy on LGBT health since 2009, which seeks to meet the specific healthcare needs of LGBT people as well as to reduce stigma. However, its implementation differs between states and it cannot be said to be fully available nationwide or outside of state capitals. Since 2008, public health services have been required to call trans people by the name they wish to be called by. Gender reassignment surgery is theoretically available according to the Ministry of Health ordinances, but implementation at state level is uneven and even in 2018 not all states are yet able to offer this service.

LGBT INCLUSION IN THE WORKPLACE

THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Brazil:

- ✓ **Consult local LGBT organisations to understand the local context for LGBT people**
- ✓ **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
- ✓ **Train HR staff and promote inclusive policies**
- ✓ **Carry out LGBT-inclusive diversity training**
- ✓ **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- ✓ **Audit and extend partner benefits to same-sex partners**
- ✓ **Establish employee engagement mechanisms like LGBT networks and allies programmes**
- ✓ **Carry out LGBT awareness-raising events**
- ✓ **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
- ✓ **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. www.stonewall.org/gwei



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Accenture Accenture has put its inclusive policies and diversity values into practice by offering its employees in Brazil the opportunity to include their same-sex spouses as beneficiaries of their private healthcare plan. The LGBT staff network at Accenture Brazil also works to raise awareness of LGBT issues among the workforce and promote respect and an equal working environment. Internal awareness is raised through events such as the Inclusion & Diversity Week or business lunches where network members, executives and allies meet to discuss topics the LGBT staff network is working on. To celebrate LGBT Pride Month, Accenture participates in the Pride parade each year with dozens of employees joining. Accenture also provides diversity training to its employees with the aim of giving individuals the necessary tools and resources to create an inclusive workplace, where LGBT employees can perform at their full potential. Accenture's Diversity & Inclusion team also provided training to the Brazilian leadership team on how to support trans employees who transition. The training entailed education on the LGBT community, including differences between sexual orientation, gender identity and gender expression. It also focused more specifically on steps that can be taken to support a trans employee through transition in the workplace, such as the importance of using the correct pronouns. The firm also seeks to contribute to the local community and collaborated with other companies to provide skill training to local trans youth to better prepare them for the labour market.

Procter & Gamble Procter & Gamble (P&G) in Brazil has been investing in creating equal and inclusive workplaces for its LGBT employees. The firm's internal policies expressly prohibit discrimination and harassment based on sexual orientation, gender identity and gender expression. These policies build the foundation for an LGBT-inclusive work environment. A related diversity statement is publicised on P&G's website. P&G reviewed all employee benefits in Brazil to ensure they applied equally to same-sex and different-sex couples. These included health insurance, life insurance plans, leaves of absence and privileges like company cars and relocation support. P&G Brazil also runs an LGBT employee network called GABLE. The network has active members, including LGBT employees and allies, in all P&G offices and manufacturing plants across Brazil. GABLE leads on activities to raise awareness about LGBT matters. For example, the network provides training to all employees and partners on how to create an LGBT-inclusive workplace. GABLE also communicates its stance on LGBT equality externally. In 2017, an advertisement was launched that featured same-sex couples. The GABLE Brazil leader, a trans man, has also been featured in a magazine where he spoke about being trans in the workplace. GABLE also published a social media statement against a court case in which the so-called 'gay conversion therapy' was approved by a judge.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

June – São Paulo Pride Parade. www.paradasp.org.br

November – Rio de Janeiro Pride Parade. www.arco-iris.org.br

Check the events websites for the most up-to-date information on dates.



FIND LGBT GROUPS AND COMMUNITIES

ABGLT - a national LGBT rights network which brings together over 300 organisations defending the rights of LGBT people and preventing discrimination. www.abgl.org

Fórum Empresas e Direitos LGBT - a forum for companies committed to respecting and promoting the human rights of LGBT people. www.forumempresaslgbt.com

Grupo Arco-Íris – an LGBT equality organisation working in the areas of health, education, culture, human rights and citizenship. www.arco-iris.org.br

Grupo Dignidade – an LGBT organisation engaging in advocacy, campaigning, training, the provision of information and other services. www.grupodignidade.org.br

Instituto Ethos – an organisation that helps companies to manage their business in a socially responsible way. Advancing equality and diversity is one of Instituto Ethos' key areas of expertise. www3.ethos.org.br

ParadaSP – an association of individuals and community groups who organise the annual Pride Parade in São Paulo. www.paradasp.org.br

Rede Trans Brasil – an organisation monitoring human rights violations, violence and homicides against trans people in Brazil. www.redetransbrasil.org

Sexuality Policy Watch – a Brazilian-based global forum composed of researchers and campaigners engaged in mapping developments in sexual and human rights globally. www.sxpolitics.org

TRANSEmpregos – a network of employers and jobseekers aimed at facilitating job opportunities for trans people. www.facebook.com/transempregos/



GET LOCAL LGBT UPDATES

iGay – an online LGBT news publication. www.igay.ig.com.br

ATHOS GLS – an online LGBT news portal. www.athosgls.com.br



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 50 ORGANISATIONS OPERATING IN BRAZIL.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of February 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)