

BRAZIL

Law and Religion Framework Overview

*The following document is part of an ongoing effort to identify the government framework for addressing religious issues and religious organizations in all major countries. It is intended to provide an overview, not an in-depth analysis. Our researchers strive to be as complete and accurate as possible; however, the document is a work in progress. Please use the **Feedback** button at the top of your screen to provide us with corrections, additional relevant information or other areas you would like to see addressed.*

I. INTRODUCTION

This article provides a framework for understanding religious liberty in Brazil. The Historical and Political Context and Religious Context Analysis sections provide an overview of the significant events and trends of religious freedom throughout Brazil’s history. The section titled Sources of Law Affecting Religion provides a foundation for examining Brazil’s laws affecting religious liberties. The section titled Specific Issues Relating to Religious Liberties focuses on various areas of society that are impacted by religious policies, such as employment, immigration, and education. The next section, Governmental Framework for Religious Policy Decision-Making, explores the governmental structure of Brazil, as well as the departments, groups, and people who have particular influence over religious liberty policy decisions. Finally, this article concludes with a section that identifies the trends and predictions of religious liberty issues within Brazil, and provides a flowchart illustrating the interrelations between the governmental structure, departments, groups, and religious liberty issues discussed in this article.

II. HISTORICAL AND POLITICAL CONTEXT

The country of Brazil, officially the Federative Republic of Brazil (*República Federativa do Brasil*) gained independence from Portugal on September 7, 1822.¹ Brazil and Portugal signed a formal treaty recognizing independence on August 29, 1825.² Currently the largest country in South America and in the Southern Hemisphere, Brazil, located in Eastern South America, has an estimated population as of July 2018 of 208,846,892, the fifth largest in the world.³

First founded in 1500 by Portuguese nobleman Pedro Álvares Cabral, the territory now known as Brazil originally consisted of a population of indigenous peoples exceeding that of Portugal itself.⁴ A significant portion of the history of Brazil is shaped by the enslavement of these native peoples by Portuguese conquerors.⁵ As sugar cane plantations grew in size and number and the need for sustainable labor grew, Portuguese colonists sought slaves from Africa to support the Brazilian economy, inadvertently bringing with them various African traditions and religious practices.⁶

¹ REX A. HUDSON, BRAZIL: A COUNTRY STUDY xxxiii (Richard F. Nyrop ed., 1998).

² *Id.* at 40.

³ U.S. CENTRAL INTELLIGENCE AGENCY, SOUTH AMERICA: BRAZIL, THE WORLD FACTBOOK (last updated Jun. 24, 2019), <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html>.

⁴ HUDSON, *supra* note 1, at 6.

⁵ *Id.* at 7.

⁶ THOMAS E. SKIDMORE, BRAZIL FIVE CENTURIES OF CHANGE, 14–17 (Oxford University Press, 1999).

For much of the early 1600s up until 1621, Portugal worked with Spanish assistance to expand along the Atlantic coast.⁷ Significant Spanish advances involved Jesuit mission settlements in areas to the south and north of Brazil.⁸ As Spanish-Portuguese tensions rose, slave hunters from São Paulo, a Portuguese town, attacked Jesuit mission settlements in modern-day Paraguay, leading to the evacuation of tens of thousands of surviving Guaraní peoples to what is presently Rio Grande do Sul.⁹

The Jesuit influence was strong from the start of Brazil's founding, used as a means of pacifying and converting the indigenous natives of Brazil.¹⁰ The strength of Brazil's Roman Catholic heritage also can be traced to fifteenth-century missionary efforts from Roman Catholics of Iberian origin,¹¹ fortified in the late nineteenth century by Italian Catholic immigrants.¹² The Jesuits, who at the time controlled significant areas in the interior of South America, eventually were expelled from Brazil in 1759 due to suspicions of connections with the British.¹³

Dom Pedro I, the first emperor of Brazil, declared the country's independence from Portugal in 1822.¹⁴ Brazil's first constitution designated Roman Catholicism as the official religion of the country, stating in Article 5: "The Roman Catholic Apostolic Church will continue to be the religion of the Empire. All other religions will be permitted in the form of domestic or private worship in specifically designated houses without the external appearance of a temple."¹⁵

In 1888, the slave trade was abolished and the flow of immigration into the country from places like Portugal, Germany, Italy, and Spain further cultivated the ethnic and cultural diversity of Brazil.¹⁶ A year later, the second emperor, Dom Pedro II, was deposed and the monarchy was replaced with a republic.¹⁷ The new government led to a new, secular constitution in 1891.¹⁸

Brazil's current constitution, its seventh, was promulgated in 1988. It emphasizes civil liberties and human rights, including freedom of religion.¹⁹ The current president of Brazil, Jair Bolsonaro, the 38th president, assumed office on January 1, 2019.²⁰ He was elected as a member of the Social Liberal Party, but due to allegations of corruption against the party, he is creating a new party named Alliance. In his inaugural address, President Bolsonaro stated that promotion of religious freedom and family values would be principal goals of his administration. Indeed, in his maiden speech to the United Nations, opening the 74th UN General Assembly on September 24, 2019, President Bolsonaro emphasized the importance of religious freedom in Brazil. He criticized religious persecution across the world and argued for the creation of the International Day in Remembrance of Victims of Religion-based Violence. He said that it is unacceptable in the 21st century, with so many tools available to safeguard rights, that "there are

⁷ HUDSON, *supra* note 1, at 11.

⁸ *Id.*

⁹ *Id.* at 12.

¹⁰ *Id.* at 18.

¹¹ *Id.* at 132–33.

¹² *Id.*

¹³ *Id.* at 28.

¹⁴ *Id.* at 32.

¹⁵ CONSTITUIÇÃO DA REPÚBLICA DOS ESTADOS UNIDOS DO BRASIL [CONSTITUTION] Mar. 25, 1824, Art. 5 (Braz.) (repealed Nov. 15, 1889).

¹⁶ HUDSON, *supra* note 1, at 53, 65.

¹⁷ *Id.* at 340.

¹⁸ *Id.* at 340.

¹⁹ *Id.* at 260.

²⁰ U.S. CENTRAL INTELLIGENCE AGENCY, *supra* note 3.

still millions of Christians and people of other religions being deprived of their lives or freedom because of their faith.”²¹

Brazil’s ethnicity is as follows: white 47.7%, mulatto (mixed white and black) 43.1%, black 7.6%, Asian 1.1%, indigenous 0.4%.²²

III. RELIGIOUS CONTEXT

While there exist a variety of religious practices in Brazil, the predominant majority still follow Roman Catholicism.²³ The most recent census, 2010, outlines the distribution of religions in Brazil as follows: 65% Catholic, 22% Protestant (includes Adventist 6.5%, Assembly of God 2.0%, Christian Congregation of Brazil 1.2%, Universal Kingdom of God 1.0%, other Protestant 11.5%), 5% other Christian and non-Christian groups, and 8% no religion.²⁴ The vast majority of Brazilians (87%) declared themselves to be Christians.²⁵ Those making up the non-Protestant Christian groups included Jehovah’s Witnesses and The Church of Jesus Christ of Latter Day Saints.²⁶ Non-Christian groups included Buddhists, Jews, Muslims, Hindus, and Afro-Brazilian groups such as Candomblé and Umbanda.²⁷

In a Datafolha²⁸ survey of religious practices in Brazil, conducted on December 5 and 6, 2019, 50% of respondents identified as Catholic, 31% as Evangelicals, 3% as Spiritualists, 2% as African religions, 10% as having no religion and 1% as atheists.

A 2016 Pew Research survey of the twenty-five most populous nations in the world, ranked Brazil, along with Japan, the Philippines, the Democratic Republic of Congo, and the United States as having the lowest overall restrictions on religion.²⁹ Brazil is typically a fixture on the list.³⁰ government of Brazil makes conscious efforts to reflect the sentiment of religious freedom found in its constitution, implementing laws and statutes that emphasize religious discrimination as a crime.

²¹ *In UN speech, Bolsonaro talks about socialism and religion*, EBC (Sep. 24, 2019), <http://agenciabrasil.ebc.com.br/en/politica/noticia/2019-09/un-speech-bolsonaro-talks-about-socialism-and-religion> (last visited Jan. 16, 2020).

²² U.S. Central Intelligence Agency, *supra* note 3.

²³ U.S. DEPARTMENT OF STATE, 2018 REPORT ON INTERNATIONAL RELIGIOUS FREEDOM: BRAZIL (Jun. 21, 2019) <https://www.state.gov/reports/2018-report-on-international-religious-freedom/brazil/>.

²⁴ *Id.*

²⁵ *Censo 2010: número de católicos cai e aumenta o de evangélicos, espíritas e sem religião* [2010 Census: Number of Catholics Falls and Increases for Evangelicals, Spiritualists and No Religion], CENSO (Jun. 29, 2012), <https://censo2010.ibge.gov.br/noticias-censo?id=3&idnoticia=2170&view=noticia>

²⁶ *Id.*

²⁷ U.S. DEPARTMENT OF STATE, *supra* note 21.

²⁸ *50% dos brasileiros são católicos, 31%, evangélicos e 10% não têm religião, diz Datafolha* [50% of Brazilians are Catholic, 31% Evangelicals and 10% have no religion, says Datafolha], FOLHA (Jan. 13, 2020), <https://g1.globo.com/politica/noticia/2020/01/13/50percent-dos-brasileiros-sao-catolicos-31percent-evangelicos-e-10percent-nao-tem-religiao-diz-datafolha.ghtml> (last visited Jan. 14, 2020).

²⁹ PEW RESEARCH CENTER, GLOBAL UPTICK IN GOVERNMENT RESTRICTIONS ON RELIGION IN 2016 (Jun. 21, 2018) <https://www.pewforum.org/wp-content/uploads/sites/7/2018/06/Restrictions-IX-FULL-REPORT-WITH-APPENDIXES.pdf>; *see also* BERKLEY CENTER, *Brazil: A Lesson in the Peaceful Navigation of Religious Change*, <https://berkeleycenter.georgetown.edu/essays/brazil-a-lesson-in-the-peaceful-navigation-of-religious-change> (last visited Jul. 12, 2019).

³⁰ *Id.*

Brazil is a party to the International Covenant on Civil and Political Rights, which emphasizes the importance of freedom of religion, and repudiates discrimination based on religious beliefs or practices.³¹ In May of 2019, Brazil sponsored a United Nations General Assembly Resolution reaffirming the freedom of religion as a right and echoing the sentiments of the Universal Declaration of Human Rights.³² The resolution condemned “continuing acts of intolerance and violence based on religion or belief against individuals.”³³

Brazil incorporates religious celebration into its national holidays and other days of commemoration. For example, Brazil observes the following religious holidays as national holidays:

- Good Friday/Easter: April (date varies annually). Good Friday is a bank, office, and school holiday in Brazil.
- Corpus Christi: June (date varies annually). Corpus Christi, a moveable feast, is celebrated all over Brazil with traditional Catholic rites and processions that have touristic appeal.
- Our Lady Aparecida's Day (Brazil Patron Saint's Day): October 12.
- All Souls Day: November 2.
- Christmas: December 25.³⁴

Despite Brazil's openness to varieties of religion, there continues to be a high incidence of religious intolerance.³⁵ In 2017, due to the increase in cases of religious intolerance, Brazil was classified as a country with high social hostilities.³⁶

IV. SOURCES OF LAW AFFECTING RELIGION

The law of Brazil is largely derived from Portuguese civil law and primarily based on codes and legislation. Brazil's legal infrastructure supports religious freedom and protection from religious discrimination.

a. CONSTITUTIONAL LAW

The Constitution of the Federative Republic of Brazil establishes a secular government, stating that “freedom of conscience and belief is inviolable, the free exercise of religious cults being ensured and, under the terms of the law, the protection of places of worship and their rites being guaranteed.”³⁷ It

³¹ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

³² G.A. Draft Res. 73/296, U.N. Doc. A/73/L.85 (May 13, 2019).

³³ *Id.* at 2.

³⁴ EMBASSY OF BRAZIL IN WASHINGTON, TIPS FOR TRAVELERS, http://washington.itamaraty.gov.br/en-us/tips_for_travelers.xml (last visited Jul. 9, 2019).

³⁵ Richard Mann, *Brazil Records over 500 Cases of Religious Intolerance in 2018*, RIO TIMES (Jun. 14, 2019), <https://riotimesonline.com/brazil-news/rio-politics/society/brazil-records-over-500-cases-of-religious-intolerance-in-2018/>.

³⁶ <https://www.pewforum.org/interactives/restrictions-on-religion-among-the-25-most-populous-countries-2007-2017/> (last visited Jan. 16, 2020).

³⁷ CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] tit. II, ch. I, art. 5, cl. VI (Braz.) [hereinafter *Constitution of Brazil*] http://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/brazil_federal_constitution.pdf

further states that , “no one shall be deprived of any rights because of religious belief . . . unless he invokes it to exempt himself from a legal obligation required of all and refuses to perform an alternative obligation established by law.”³⁸ The Constitution also ensures “the provision of religious assistance to the civil and military entities of collective internment” (e.g., civil and military hospitals and prisons).³⁹

The Constitution states that all federal, state and municipal governments are forbidden to “establish religions or churches, subsidize them, hinder their activities, or maintain relationships of dependence or alliances with them or their representatives, without prejudice to collaboration in the public interest in the manner set forth by law.”⁴⁰ The Constitution further provides the possibility of waiver from military conscription for religious reasons,⁴¹ prohibits federal, state and municipal governments from taxing “temples of any religion,”⁴² makes religious education optional in public elementary schools,⁴³ allows allocation of public funds to religious schools,⁴⁴ and treats religious marriages with civil effect.⁴⁵

As aforementioned, Brazil has ratified the Universal Declaration of Human Rights (1969)⁴⁶ and the International Covenant on Civil and Political Rights (1966)⁴⁷, as well as the Pact of San Jose, Costa Rica (1969).⁴⁸ Ratification by the National Congress gives these conventions the same force of authority as a constitutional amendment.⁴⁹

b. STATUTORY LAW

The government of Brazil has enacted federal laws providing penalties of up to five years in prison for crimes of religious intolerance. Courts may fine or imprison individuals who play, distribute, or broadcast religiously intolerant material for two to five years, and it is illegal to write, edit, public, or sell literature that promote religious intolerance.⁵⁰

The Brazilian Penal Code stipulates detention, from one month to a year, or a fine for mocking someone publicly for their religious belief or function; preventing or disrupting a religious worship ceremony or practice; and publicly vilifying an act or object of religious worship." If violence is employed, the penalty is increased by one third.⁵¹

³⁸ *Id.* at tit. II, ch. I, art. 5, cl. VIII.

³⁹ *Id.* at cl. VII

⁴⁰ *Id.* at ch. V, art. 19, cl. I.

⁴¹ *Id.* at art. 143, § 1.

⁴² *Id.* at art. 150, cl. VI, subsec. b.

⁴³ *Id.* at art. 210, § 1.

⁴⁴ *Id.* at art. 213.

⁴⁵ *Id.* at ch. VII, art. 226, cl. II.

⁴⁶ Lara B. Picanco, et al., *Human Rights – Brazil 2018 Understanding the Issues*, WILSON CENTER (Aug. 14, 2018), <https://www.wilsoncenter.org/article/human-rights-brazil-2018-understanding-the-issues>.

⁴⁷ PACTO INTERNACIONAL SOBRE DIREITOS CIVIS E POLÍTICOS [International Covenant on Civil and Political Rights], art. 18, Jul. 6, 1992, Planalto D0592.

⁴⁸ *See* Convenção Americana de Direitos Humanos Pacto de São Jose de Costa Rica [The Pact of San Jose, Costa Rica (aka American Convention on Human Rights)], art. 12, Nov. 6, 1992, Planalto D0678 (ensuring religious freedom on its Art. 12, merely identical to Art. 18 of the International Covenant on Civil and Political Rights).

⁴⁹ *See Constitution of Brazil, supra* note 36, at amend. 45 (“[I]nternational treaties and conventions on Human Rights that are approved, in each House of the National Congress, in two rounds, by three fifths of votes of the respective members, will be equivalent to Constitutional Amendments.”).

⁵⁰ Decree-law no. 7,716 of January 5, 1989. http://www.planalto.gov.br/ccivil_03/leis/l7716.htm (last visited Jan. 16, 2020).

⁵¹ Decree-law no. 2,848, of December 7, 1940. Chapter I, of crimes against religious sentiment, article 208. Link: http://www.planalto.gov.br/ccivil_03/decreto-lei/del2848compil.htm

The laws that the Brazilian legislature has implemented largely reflect the sentiments of the Constitution. Religious beliefs are to be protected, and intolerance is to be punished and criminalized. For example, religious groups do not need to be registered in order to “establish places of worship, train clergy, or proselytize,” unless they seek tax-exempt status.

c. ADMINISTRATIVE LAW

Brazil does not have a separate court for administrative proceedings relating to religious laws. Regulatory agencies were implemented in the late 1900s.

d. LOCAL LAW/OTHER

Local zoning laws and noise ordinances can affect where religious groups may build places of worship or hold religious ceremonies. States and municipalities also have differing requirements when it comes to registering a religious group in order to gain tax-exempt status.

e. LEADING CASE LAW

Brazil’s legal system is rooted in Portuguese civil law and relies primarily on statutes and legislations. In 2004, the Brazilian Constitution was amended to include a doctrine similar to *stare decisis* called *Súmulas Vinculantes*, allowing the Supreme Court (“STF”) to issue, in special situations, binding decisions.⁵²

Supreme Court Cases

Very few cases have been decided by the Supreme Court regarding religious liberty. The most significant cases decided by the STF include the following:

In *Grande Oriente do Rio Grande do Sul v. Município de Porto Alegre*,⁵³ the STF determined that the tax immunity conferred by Art. 150.VI.b. of the Federal Constitution is restricted to the temples of any religious worship, and does not apply to Freemasonry, whose temples do not profess any religion.

In a very recent tax case, *The Municipality of Serra – ES x Igreja Cristã Maranata Presbitério Espírito Santense*,⁵⁴ the STF concluded that religious entities should be exempted from property tax even when there is no meeting house built on the site.

In *Confederação Nacional de Trabalhadores da Saúde (CNTS) v. Presidente da República*,⁵⁵ a case that secured therapeutic termination of anencephalic fetus pregnancy in Brazil, the STF stressed that Brazil is a “secular republic, emerging as absolutely neutral to religion.”⁵⁶

⁵² *Constitution of Brazil*, *supra* note 40, ch. III, sec. II, art. 103-A.

⁵³ S.T.F.J., RE 562351 / RS, Relator: Min. Ricardo Lewandowski, 09.04.2012, 245, Diário do Judiciário Eletrônico [D.J.e.], 14.12.2012 (Braz.).

⁵⁴ S.T.F.J., ARE 800395 / ES, Relator: Min. Roberto Barroso, 28.10.2014, 224, Diário do Judiciário Eletrônico [D.J.e.], 14.11.2014 (Braz.).

⁵⁵ S.T.F.J., ADPF 54 / DF, Relator: Min. Marco Aurélio, 12.04.2012, 080, Diário do Judiciário Eletrônico [D.J.e.], 30.04.2013 (Braz.).

⁵⁶ *Id.*

In *Centro de Educação Religiosa Judaica v. União*,⁵⁷ the STF ruled that Jewish students could not take the National High School Exam (ESMS) on an alternative date to *Shabat*. The Court understood that to approve such an alternative would constitute an offense to the principle of equality. According to the Court, a fundamental right cannot be invoked to excuse oneself of obligations imposed on everyone.

Recently, the STF overturned a state court's decision in Rio Grande do Sul, holding that animal sacrifices in religious ceremonies are protected.⁵⁸

The STF also held in May of 2019 that homophobia and transphobia are crimes, but the court made an exception recognizing religious freedom. It stated:

“The criminal sanction of homo-transphobia does not restrict or limit the exercise of religious freedom, guaranteeing religious persons and ministers the right to freely preach and propagate their thoughts; express their convictions in accordance with their sacred books; teach according to their doctrinal and/or theological orientation; seek and enlist converts; practice acts of worship and liturgy, in public or private, collectively or individually. However, protected exercise of religious freedom does not encompass hate speech or conduct that could be understood to incite discrimination, hostility or violence against people because of their sexual orientation or gender identity.”⁵⁹

The court made it clear that its decision is temporary until the national Congress enacts a law that makes homophobia a crime. Until then, homophobia will be considered a crime equal under the law to the crime of racism.

Superior Tribunal of Justice Cases

Like the STF, the Superior Tribunal of Justice (“STJ”) has not decided many cases on the topic of religious freedom. The most significant cases decided by the Superior Tribunal include the following:

The case, *Mariane Vieira Moral v. Danilo Vieiro*, involved the question whether a school must provide a student the right to take an exam on a day other than his day of worship. The STJ held that the relationship between a person and a church creates no obligations to third parties.⁶⁰ However, the court issued a writ obligating the school to provide alternative days to take exams that are scheduled for Saturdays, because Sao Paulo had a law guaranteeing the student's right to obtain such a writ and to create compensation mechanisms when exams are scheduled on Saturdays.

In *Gildásia dos Santos e Santos' Assets v. Igreja Universal do Reino de Deus* (“the Church”), the STJ ruled that the Church must pay compensation for moral damages after an Umbanda Priestess suffered a heart-attack when she saw her picture in a magazine distributed by the Church, alleging that the priestess was a fraud and would steal from her clients due to her religious beliefs.⁶¹ Due to this event, the

⁵⁷ S.T.F., STA 389 AgR / MG, 03.12.2009, Relator: Min. Gilmar Mendes, 086, Diário do Judiciário Eletrônico [D.J.e.], 13.05.2010 (Braz.).

⁵⁸ Lise Alves, *Brazil's Supreme Court Rule Animal Sacrifice in Religious Ceremony is Legal*, RIO TIMES (Mar. 29, 2019), <https://riotimesonline.com/brazil-news/rio-politics/brazils-supreme-court-rule-animal-sacrifice-in-religious-ceremony-is-legal/>.

⁵⁹ ADO 26/DF, STF, <http://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/tesesADO26.pdf>

⁶⁰ S.T.J., RMS 37070 / SP 2012/0020565-0, Relator: Min. Benedito Gonçalves, 25.02.2014, Diário do Judiciário Eletrônico [D.J.e.], 10.03.2014 (Braz.).

⁶¹ S.T.J., REsp 913131 / BA, Relator: Min. Carlos Fernando Mathias, 16.09.2008, Diário do Judiciário Eletrônico [D.J.e.], 05.10.2008 (Braz.).

National Day to Combat Religious Intolerance was instituted, January 21, the day that the priestess, Mother Gilda, died.⁶²

In *Monica Alves de Oliveira Girão v. Adriano Antonio Soares*, the STJ sentenced a father to pay for compensation for moral damages for having baptized his child without the knowledge and consent of the child's mother.⁶³

V. SPECIFIC ISSUES RELATED TO RELIGIOUS LIBERTIES IN BRAZIL

a. EMPLOYMENT

Protection from religious discrimination extends into the workplace. The Superior Labor Tribunal has held on one occasion that a government employee who professes the Adventist faith shall not be required to work on Saturday, because it is against his religious beliefs.⁶⁴ In 2014, the Labor Court in the State of Mato Grosso ordered a company to pay compensation of R\$ 5,000 to a person who was denied a job because she was a non-practicing Jehovah's Witness.⁶⁵ The interviewer told the plaintiff that "[the interviewer] was active in the church [of Jehovah's Witnesses] and could not have a person who no longer practiced the religion [work for her]."⁶⁶

b. VISAS

The Ministry of Foreign Affairs ("*Itamaraty*") grants diplomatic passports to religious leaders when it believes doing so will benefit Brazilian communities.⁶⁷ The term of the document varies depending on the circumstances, typically ranging from six months to five years.⁶⁸

c. PROPERTY RIGHTS

The Constitution of Brazil prohibits the levying of taxes on religious buildings.⁶⁹

⁶² Nota em celebração ao Dia Nacional de Combate à Intolerância Religiosa [Note in celebration of National Day for Combating Religious Intolerance], MDH (Jan. 21, 2019), <https://www.mdh.gov.br/todas-as-noticias/2019/janeiro/nota-em-celebracao-ao-dia-nacional-de-combate-a-intolerancia-religiosa>

⁶³ S.T.J., EREsp 1117793, Relator: Min. Aldir Passarinho Junior, 02.08.2010, Diário do Judiciário Eletrônico [D.J.e.], 03.08.2010 (Braz.).

⁶⁴ T.S.T., 0051400-80.2009.5.21.0017, Diário do Judiciário Eletrônico [D.J.e.], 16.10.2018 (Braz.).

⁶⁵ *Justice Condemns Company for Religious Discrimination in MT*, GLOBO (Apr. 28, 2011), <http://g1.globo.com/brasil/noticia/2011/04/justica-condena-empresa-em-mt-por-discriminacao-religiosa.html>.

⁶⁶ *Id.*

⁶⁷ *Governo Concede Novo Passaporte Diplomático ao Pastor R. R. Soares e à Sua Esposa* [Government Grants new Diplomatic Passport to Pastor R. R. Soares and His Wife], GLOBO (Jun. 4, 2019), <https://g1.globo.com/politica/noticia/2019/06/04/governo-concede-novo-passaporte-diplomatico-ao-pastor-r-r-soares-e-a-sua-esposa.ghtml>.

⁶⁸ *Líderes Religiosos Têm Direito a Passaporte Diplomático Com Até 5 Anos De Validade* [Religious Leaders are Entitled to a Diplomatic Passport with Validity up to 5 Years], JUSBRASIL (Jan. 17, 2013), <http://agencia-brasil.jusbrasil.com.br/noticias/100297190/lideres-religiosos-tem-direito-a-passaporte-diplomatico-com-ate-5-anos-de-validade>.

⁶⁹ *Constitution of Brazil*, *supra* note 40, at tit. II, ch. V, art. 210, § 1.

In recent years, religious groups have committed acts of violence and vandalism against religious buildings.⁷⁰ Governmental officials have been meeting with evangelical leaders and visiting syncretic religious buildings to speak with leaders and members of discriminated communities.

d. IMMIGRATION

Immigration has had a significant impact on Brazil's religious history. Today, a majority of immigrants come from Venezuela, Cuba, Haiti, and Angola.⁷¹

e. HOUSING

Housing is discussed above in subsection c. *Property Rights*.

f. EDUCATION

The Brazilian Constitution allows religious education to be an optional course during normal school hours in public elementary schools⁷² and permits the allocation of public funds to religious schools so long as the schools are non-profit and can “ensure that their patrimony will be transferred to another [similar institution], or to the Government, in the event they cease their activities.”⁷³

g. NON-GOVERNMENTAL ORGANIZATIONS

Numerous non-profit and non-governmental organizations are working to promote religious liberty in Brazil. One example is the Universal Peace Federation (“UPF”), an international non-governmental organization that is dedicated to achieving world peace, focusing on interfaith peacebuilding and peace education.⁷⁴ UPF holds the Walk for Peace, a walking path which brings people of different religions together to increase understanding.⁷⁵

The Brazilian Bar Association (*Ordem dos Advogados do Brasil* - OAB) has set up commissions on religious freedom and law in 19 Brazilian states to defend and promote religious freedom through the law. OAB created a federal commission on religious freedom and law in Brasilia. Felix Palazzo, a lawyer who is a member of The Church of Jesus Christ of Latter-day Saints chaired this commission in 2018.

The Adventist Church-affiliated International Religious Liberty Association (IRLA) strongly supports religious freedom in Brazil. Damaris Moura, an Adventist lawyer and former chairman of the OAB/SP religious freedom commission, was elected to the state legislature in Sao Paulo in 2018 on a religious freedom platform. In September 2019, she helped create the Parliamentary Front for the Defense of Religious Freedom at the São Paulo State Legislative Assembly.⁷⁶

⁷⁰ *Onda de violência: Minas registra terceira depredação de igrejas em quatro dias* [Wave of violence: Minas Gerais records third church depredation in four days], JM (Oct. 31, 2018), <https://www.jmnoticia.com.br/2018/10/31/onda-de-violencia-minas-registra-terceira-depredacao-de-igrejas-em-quatro-dias/>

⁷¹ DE ONDE VEM AS PESSOAS QUE PEDEM REFUGIO NO BRASIL – E QUAL A SITUACAO E SEUS PAISES, BBC, <https://www.bbc.com/portuguese/internacional-44177606> (last visited Jul. 9, 2019) (in Portuguese).

⁷² *Constitution of Brazil*, *supra* note40, at tit. II, ch. V, art. 210, § 1. Correct? yes

⁷³ *Constitution of Brazil*, *supra* note40, at tit. II, ch. V, art. 213. Correct? Only art. 213

⁷⁴ *Who We Are*, UNIVERSAL PEACE FEDERATION, <http://www.upf.org/who-we-are> (last visited Jun. 24, 2019).

⁷⁵ UPF-Brazil, *Brazilians Walk for Peace*, UNIVERSAL PEACE FEDERATION, <http://www.upf.org/peace-ambassadors-reports/6965-brazilians-walk-for-peace> (last visited Jun. 24, 2019).

⁷⁶ *Frente Parlamentar em Defesa da Liberdade Religiosa é lançada na Alesp* [Parliamentary Front in Defense of Religious Freedom Launches at Alesp], ALESP (Sep. 20, 2019),

The J. Reuben Clark Law Society has grown rapidly in Brazil in recent years, currently with 15 chapters. One of the Society's principal objectives is to promote and defend religious freedom.

Members of the Brazilian Association of Evangelical Jurists (ANAJURE), hope to achieve consultative status at the United Nations by 2020. This will allow them to speak at official meetings, organize debates and even submit reports to different international bodies.⁷⁷

h. MISSIONARY WORK

Missionary work is discussed above in subsection b. Visas.

i. MISCELLANEOUS

Despite legal and governmental efforts to protect religious freedom, the Mato Grosso do Sul State Secretariat of Justice and Human Rights reported in 2018 that the number of cases of religious intolerance in the state increased 800% compared with 2017. In the past five years, the country has experienced growing animosity toward non-religious peoples and between religious denominations such as Christianity and Candomblé. For example, teachers or student peers discriminated against students who practiced Candomblé, including being threatened to repeat prayers or face expulsion and forced by school authorities to attend Catholic or evangelical classes.⁷⁸ In 2015, an eleven-year-old girl was stoned after leaving a Candomblé service.⁷⁹

Other issues related to religious liberty include forced labor and trafficking involving religious cults,⁸⁰ gang violence fueled by religious zeal,⁸¹ and the delicate interplay between steadfast Christian beliefs and a woman's right to contraception.⁸²

In December 2019, a Netflix Christmas special movie, "Back Door: Christ's First Temptation," which depicted Jesus as a gay man, created much controversy throughout Brazil. On January 7, 2020, a

<https://www.al.sp.gov.br/noticia/?20/09/2019/frente-parlamentar-em-defesa-da-liberdade-religiosa-e-lancada-na-alesp> (last visited Jan. 14, 2020).

⁷⁷ *Apoiadores do Itamaraty, juristas evangélicos querem voz em debates na ONU* [Itamaraty supporters, evangelical jurists want voice in UN debates], UOL (Jan. 10, 2020), <https://noticias.uol.com.br/columnas/jamil-chade/2020/01/10/juristas-evangelicos-onu-brasil-governo-bolsonaro.htm> (last visited Jan. 14, 2020).

⁷⁸ U.S. DEPARTMENT OF STATE, 2013 REPORT ON INTERNATIONAL RELIGIOUS FREEDOM: BRAZIL (Jul. 28, 2014), <http://www.state.gov/j/drl/rls/irf/2013/wha/222361.htm>.

⁷⁹ *Menina Vítima de Intolerância Religiosa Diz Que Vai Ser Difícil Esquecer Pedrada* [Girl Victim of Religious Intolerance Says it Will Be Difficult to Forget], GLOBO (Jun. 15, 2015), <http://g1.globo.com/rio-de-janeiro/noticia/2015/06/menina-vitima-de-intolerancia-religiosa-diz-que-vai-ser-dificil-esquecer-pedrada.html>.

⁸⁰ Fabio Teixeira, *Slaves to Religion: Brazil Raids Expose Dark Side of Cults*, REUTERS (Feb. 21, 2019), <https://www.reuters.com/article/us-brazil-religion-trafficking-insight/slaves-to-religion-brazil-raids-expose-dark-side-of-cults-idUSKCN1QA0JJ>.

⁸¹ Robert Muggah, *Brazilian Religious Gang Leaders Say a Holy War is Coming*, SALON (Nov. 12, 2017), https://www.salon.com/2017/11/12/brazilian-religious-gang-leaders-say-a-holy-wars-coming_partner/.

⁸² HUMAN RIGHTS WATCH, BRAZIL: EVENTS OF 2017 (2017), <https://www.hrw.org/world-report/2018/country-chapters/brazil>.

Brazilian lower court judge ordered Netflix to stop showing the movie.⁸³ Two days later, the President of the Supreme Court reversed the decision, allowing the movie to be shown. ."⁸⁴

VI. GOVERNMENTAL FRAMEWORK FOR RELIGIOUS POLICY DECISION-MAKING

Brazil's government is formally labeled as a federal presidential republic.⁸⁵ The Constitution divides the Federal Republic of Brazil, referenced as the Union, into three branches: the Executive, the Judiciary, and the Legislative, stated to be "independent and harmonious with each other."⁸⁶

The executive branch is led by the President of the Republic, who is both Chief of State and Head of Government; and supported by the Vice President and the presidentially appointed Cabinet.⁸⁷ Most notably with regard to religious policy, the Ministry of Women, Family and Human Rights ("MDH"), formerly known as the Ministry of Human Rights and Secretariat for Human Rights of the Presidency of the Republic, is an essential office of the Presidency.⁸⁸ The MDH delegates areas within its jurisdiction to numerous secretariats, including, but not limited to, the Secretary of Global Protection (led by a man who has brought together religious leaders to discuss the importance of unity in defending religious freedom), the Secretary for Women's Policies, and the Secretary for Policies for the Promotion of Racial Equality.⁸⁹ *Disque 100* (Dial 100), a hotline for human rights offenses, including religious intolerance, falls under the purview of the MDH.⁹⁰ Additionally, all police institutions are part of the Executive branch, and there have been increased efforts funneled toward educating the police force on religious tolerance and anti-racism.⁹¹

The judicial branch consists of the highest court of Brazil, the Supreme Court, and subordinate courts, such as the Superior Tribunal of Justice, the Tribunal of the Union, the Superior Election Court, and lower courts.

The legislative branch consists of a bicameral National Congress, which is divided into the Federal Senate and Chamber of Deputies.⁹² The National Congress is responsible for preparing laws, legislative decrees, resolutions, and other legislative acts, as well as reviewing proposed amendments to the Constitution.⁹³ The Federal Senate has eighty-one seats and the Chamber of Deputies has five-hundred

⁸³ *Brazilian judge orders Netflix to stop showing gay Jesus movie*, REUTERS (Jan. 8, 2020), <https://www.reuters.com/article/brazil-lgbt-media/brazilian-judge-orders-netflix-to-stop-showing-gay-jesus-movie-idUSL8N29D73J> (last visited Jan. 14, 2020).

⁸⁴ *Toffoli concede liminar e suspende censura a especial do Porta dos Fundos* [Toffoli grants injunction and suspends censorship of Backdoor special], CONJUR (Jan. 9, 2020), <https://www.conjur.com.br/2020-jan-09/toffoli-suspende-censura-especial-porta-fundos> (last visited Ja. 14, 2020).

⁸⁵ U.S. CENTRAL INTELLIGENCE AGENCY, *supra* note 3.

⁸⁶ *Constitution of Brazil*, *supra* note 36.

⁸⁷ U.S. CENTRAL INTELLIGENCE AGENCY, *supra* note 3.

⁸⁸ Dom Phillips, *Bolsonaro to Abolish Human Rights Ministry in Favour of Family Values*, THE GUARDIAN (Dec. 10, 2018), <https://www.theguardian.com/world/2018/dec/06/outcry-over-bolsonaros-plan-to-put-conservative-in-charge-of-new-family-and-women-ministry>.

⁸⁹ *Secretarios*, MINISTERIO DA MULHER, DA FAMÍLIA E DOS DIREITOS HUMANOS, <https://www.mdh.gov.br/secretarios/> (last visited Jan. 10, 2020).

⁹⁰ *Disque 100*, MINISTERIO DA MULHER, DA FAMÍLIA E DOS DIREITOS HUMANOS, <https://www.mdh.gov.br/informacao-ao-cidadao/disque-100> (last visited Jun. 24, 2019).

⁹¹ *Policiais Terão Aulas Antirracismo* [Police Officers to Receive Anti-Racism and Religious Tolerance Education], O GLOBO (May 15, 2018), <https://blogs.oglobo.globo.com/marina-caruso/post/policiais-terao-aulas-antirracismo.html>.

⁹² U.S. CENTRAL INTELLIGENCE AGENCY, *supra* note 3.

⁹³ *Legal Research Guide: Brazil – The Legislative Branch*, LIBRARY OF CONGRESS, <https://www.loc.gov/law/help/legal-research-guide/brazil-legislative-branch.php> (last updated Jun. 9, 2015).

and thirteen.⁹⁴ The National Congress has a permanent committee devoted to minorities and human rights, which would include religious freedom, but no permanent committee is focused exclusively on religious liberty.⁹⁵ A Parliamentary Front for Religious Freedom, Refugees and Humanitarian Aid currently has a membership of 210 deputies and 8 senators.⁹⁶

The lawmaking process begins in the National Congress with introduction of a bill, resolution, legislative decree, provisional decree, or amendment to the Constitution (referred to as a “project of law”).⁹⁷ The Parliament, the President of the Republic, the Supreme Court, the higher Courts, the Republic’s General Attorney, and citizens can introduce a project of law.⁹⁸ Most projects of law are introduced in the Chamber of Deputies.⁹⁹ All projects of law are considered in both the Chamber of Deputies and the Senate.¹⁰⁰ After the National Congress deliberations, Executive Deliberation allows the President of the Republic to sanction or veto the proposition.¹⁰¹ If sanctioned, the project of law becomes a law and the President has forty-eight hours to promulgate it. If vetoed, the project of law is returned to Congress for disposal or modification.¹⁰²

VII. PENDING LEGISLATION, TRENDS, AND PREDICTIONS

In April 2019, the Rio de Janeiro State government established a joint program between the State Secretariat of Education and the State Secretariat of Human Rights and Women’s Policies to integrate discussions and teachings regarding religious intolerance in public school curriculum across the state.¹⁰³

In April 2019, President Bolsonaro signed Law No. 13,796 (amending Law 9394/96), which provides for students to take tests on alternative days and be absent from classes or tests on days of their religious observance.¹⁰⁴ The measure aims to ensure respect for diverse beliefs in school settings.¹⁰⁵

In May 2019, the Sao Paulo Legislative Assembly passed a bill that would reduce prison sentences, allowing prisoners to receive credit for the number of books they read in the Bible and put that credit toward reducing their sentences.¹⁰⁶ Similar legislation was introduced at the federal level in June.¹⁰⁷ Also in June 2019, the Human Rights Commission of the Chamber of Deputies conducted a public hearing discussing public policies in action to fight religious intolerance.¹⁰⁸ In August, Rio de Janeiro State, following the footsteps of the Federal District, Parana State, and Mato Grosso do Sul State,

⁹⁴ U.S. CENTRAL INTELLIGENCE AGENCY, *supra* note 3.

⁹⁵ *Comissões Permanentes*, CÂMARA DOS DEPUTADOS, <https://www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-permanentes> (last visited Jan. 10, 2020).

⁹⁶ *Lançada Frente Parlamentar da Liberdade Religiosa, Refugiados e Ajuda Humanitária* [Launched Parliamentary Front for Religious Freedom, Refugees and Humanitarian Aid], CÂMARA DOS DEPUTADOS (May, 9, 2019), <https://www.camara.leg.br/noticias/557123-LANCADA-FRENTE-PARLAMENTAR-DA-LIBERDADE-RELIGIOSA,-REFUGIADOS-E-AJUDA-HUMANITARIA> (last visited Jan. 10, 2020).

⁹⁷ *Legal Research Guide: Brazil – The Legislative Branch*, *supra* note 100.

⁹⁸ *Constitution of Brazil*, *supra* note 40, at tit. II, ch. V, art. 61.

⁹⁹ *Chamber of Deputies*, CÂMARA DOS DEPUTADOS, <https://www2.camara.leg.br/english> (last visited Jun. 25, 2019).

¹⁰⁰ *Id.*

¹⁰¹ *Constitution of Brazil*, *supra* note 40, at tit. II, ch. V, art. 66.

¹⁰² *Id.*

¹⁰³ U.S. DEPARTMENT OF STATE, *supra* note 21.

¹⁰⁴ MINISTRY OF WOMEN, FAMILY AND HUMAN RIGHTS, *Bolsonaro Sanciona Lei Que Garante Guarda Religiosa Nas Escolas*, <https://www.mdh.gov.br/todas-as-noticias/2019/janeiro/bolsonaro-sanciona-lei-que-garante-guarda-religiosa-nas-escolas> (last visited, Jul. 12, 2019).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

established a police station devoted to racial and discriminatory crimes.¹⁰⁹ In September, the Federal Court in Santa Catarina State rejected a regulation that would limit the hours of operation of *terreiros* (open space that is used by Afro Brazilian religions for their religious ceremonies).¹¹⁰

In December 2019, the National Committee on Freedom of Religion or Belief was created by the Ministry of Women, Family and Human Rights (MMFDH). According to the text, the ministry committee will work to promote “respect for different beliefs and convictions, and the preservation of the Brazilian constitutional standard of secularism, as well as to support it in the formulation and proposition of action guidelines and the implementation of plans, programs and projects related to respect for different beliefs and convictions, freedom of worship and the secularism of the state.”¹¹¹

Data collected by the former Ministry of Human Rights indicate that between 2015 and 2017, there was a complaint of religious intolerance every 15 hours in Brazil. “Dial 100,” an emergency phone number for reporting religious intolerance, including when practiced by public officials and state agencies. The largest number of calls occur in São Paulo, Rio de Janeiro and Minas Gerais, respectively.¹¹²

Amidst rising conservatism in the political sphere, Brazil continues to focus on preserving and improving a delicate religious infrastructure.

Prepared by Dorsey & Whitney
(Final Version)

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Ministério cria Comitê Nacional da Liberdade de Religião ou Crença* [Ministry creates National Committee on Freedom of Religion or Belief], EBC (Dec. 18, 2019), <http://agenciabrasil.ebc.com.br/direitos-humanos/noticia/2019-12/ministerio-cria-comite-para-trabalhar-pela-liberdade-religiosa> (last visited Jan. 14, 2020).

¹¹² *Brasil tem uma denúncia de intolerância religiosa a cada 15 horas* [Brazil has a complaint of religious intolerance every 15 hours], VEJA (Nov. 13, 2017), <https://veja.abril.com.br/brasil/brasil-tem-uma-denuncia-de-intolerancia-religiosa-a-cada-15-horas/>

Government Diagram

