

Workplace Gender Issues and Legal Risk: Brazil's Courts Will Not Tolerate Rollbacks

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In recent years, a pullback by some companies in diversity and inclusion investments — particularly in response to shifts in the international political and economic landscape — has become the subject of public debate.

While this emerging international trend may prompt organizations to adopt a more defensive stance — especially with respect to awareness-raising efforts and programs aimed at preventing rights violations — the reality is that Brazilian legislation and the country's labor courts are moving in a markedly different direction.

Brazil's legal framework is unequivocal in prohibiting discriminatory practices in the workplace, and places particular emphasis on protecting women and other groups that have historically been placed in situations of heightened vulnerability.

Brazilian law provides robust protection for women in the labor market. Article 7(XX) and (XXX) of the Federal Constitution expressly safeguards women's employment rights. In addition, since 1999 the Consolidation of Labor Laws (CLT – *Consolidação das Leis do Trabalho*) has prohibited a range of discriminatory practices by employers under article 373-A, including job advertisements that reference sex, age, race, or family status; refusal to hire or promote pregnant women; termination based on pregnancy; requirements to prove sterilization or pregnancy as a condition of continued employment; and intimate searches, among other prohibited practices.

Law 14.457/2022 further strengthened this framework by overhauling the Internal Commission for Prevention of Accidents (CIPA)—a mandatory, company-level health and safety body—now renamed CIPAA (Commission for Prevention of Accidents and Harassment) to reflect its expanded mandate, and by requiring companies to put in place effective mechanisms to prevent and address sexual harassment and other forms of workplace violence. To that end, the legislation requires companies to adopt codes of conduct, establish reporting channels, integrate those issues into CIPAA activities, and implement training and awareness-raising initiatives to be conducted at least annually and delivered in accessible formats.

Brazil's labor courts have applied this legal framework with increasing rigor. In doing so, they have expressly incorporated the guidelines set out by the National Council of Justice (CNJ – *Conselho Nacional de Justiça*), Brazil's national judicial oversight body, in its *Protocol for Judging Cases from a Gender Perspective* (Resolution 492/2023), along with as the *Protocol for Action and Adjudication from an Anti-Discriminatory, Intersectional, and Inclusive Perspective* issued by the Superior Labor Appeals Court (TST – *Tribunal Superior do Trabalho*) in 2024. Together, these instruments direct

judges to incorporate human rights considerations and to assess issues related to gender, race, and ethnicity through an explicitly intersectional lens when deciding labor and employment disputes.

Recent decisions leave little doubt that employer inaction in the face of discriminatory conduct is no longer tolerated by Brazil's labor courts. In one notable decision, the Labor Court of Appeals of São Paulo upheld the constructive dismissal of an employee who had been subjected to moral harassment and transphobic violence, and also found that she was entitled to compensation in the form of moral damages. In another case, the Labor Court of Appeals of Paraná found that an employee undergoing in vitro fertilization had been subjected to discriminatory dismissal, concluding that the termination of her employment was directly linked to the state of her health and to the possibility of pregnancy.

Taken together, these decisions make it clear that, regardless of broader trends toward retrenchment, Brazilian companies must remain vigilant in safeguarding conditions at the workplace. This requires attention not only to gender-related issues, but also to their intersection with sexual orientation, race, disability, age, and other dimensions of vulnerability, as well as a sustained commitment to preventing discrimination, moral and sexual harassment, microaggressions, and other forms of workplace violence.

Beyond mere legal compliance, consistent investment in prevention policies, training, and awareness-raising initiatives remains a central pillar of effective risk management. Corporate inaction in this area has increasingly translated into material labor liabilities, significant adverse judgments, and reputational damage that is often difficult to reverse.

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