

# Legal system essay sample

[Business](#), [Company](#)



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The legal system of the Brazilian organizational culture, in general is regarded as a closed system where leaders hold strong responsibilities, paternalistic patterns, rigid values, and highly centralized hierarchical structures prevailing in the business environment.

It is evident that each nation in the world has its distinct set of laws that govern its people and how it relates to other nations. Even though each legal system has its distinct characteristics, there exist three basic classifications of legal systems: Anglo-American Common Law, Romano-Germanic Civil Law, and Islamic Law. The legal system of Brazil is classified as Civil Law Code and is defined in the national law codes. In contrast to rules that are basically formulated a judge, the Brazilian system is basically codified. These codes contain the basic legislation on the issues and are organized as commercial, civil, criminal, tax, among others (Silva & de Jesus 151). The Federal Constitution is supreme and none of these supersedes it.

Even though decisions made by the courts are based on application of laws, it may decide on the customs, analogy, and general principles in cases where there is no specific legal provision. Judicial precedents bear no influence of law in Brazil, even though they play a major role in supporting the court's decision. The country is organized as a federal republic where

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each state is organized and governed by their own laws and constitutions in accordance to the principles set in the Federal Constitution (Silva & de Jesus 153). The federal governments, municipalities, and states are responsible for issuing laws by their legislative structure. The federal constitution defines the administrative/political organization, warranties of citizens, fundamental rights; provides for financial and socio-economic policy; and regulates the tax system (Silva & de Jesus 153). The federal government, on the other hand holds exclusive authority to legislate on commercial, labor, civil, electoral, maritime, aeronautical, procedural, and space laws. Specifically, the federal government is responsible for the monetary system, credit policy, insurance, mining deposits, foreign trade, citizenship, nationality, and other issues. However, its authority is limited to providing the general guidelines. The municipal legislative has authority on matters pertaining to local interest.

## **Legal issues**

The legal issues in international business in Brazil revolve around the laws governing international business in the country. The first issue revolves around contract law since Brazilian contract laws are not similar to those that international investors are familiar with in their countries of origin. Potential investors must consider the differences between the contract laws of Brazil and that of their home countries in order to ensure that provisions of their contracts are enforceable in Brazil (Silva & de Jesus 152). The scope of right to contract is much rigid in scope since laws in Brazil pre-determine much of the contractual obligation and rights of the parties prior to the formation of the contract. In addition, the general provisions for partnership in Brazilian

Civil Code explicitly bar a manager from unilaterally replacing himself in a partnership, even if the agreement for partnership allows the manager to do so. On the contrary, the US partnership law would allow that if specified under the contract.

Another issue pertains to the type of company that is being established in Brazil. The Civil Code and other relevant laws in Brazil have provision for more than nine corporate bodies that can be established in the country. Before settling on the type of company or form of partnership to create, an international investor should cautiously consider its long-term plans for operations in the country. Most investors prefer forming a corporation or a limited liability partnership. However, such entities are not the best option considering the Brazilian law. For example, the Brazilian Civil Code prohibits limited liability partnerships, which are prevalent in other countries such as the US, where one partner provides the capital for running the business while the other provides solely services (McKee 60). In cases where the corporation is not compliant with the law, the government will register the certificate or enforce the partnership. This results in delaying the formation of the company, or even prohibits the corporation from conducting business in Brazil.

The third issues is the application of visa for foreign investors. Unlike in other countries such as the US, Brazil has two departments - the Department of Labor and the Department of Justice handling the process (Silva & de Jesus 151). The visa application process in Brazil also has many hidden processes. The country has a strong protection for its workers making the cost of hiring much higher as compared to other countries.

## **Legal risk**

Theoretically, Brazilian limitadas are equivalent of limited liability companies in the United States. In contrary, this is not the case since the judges can directly sue the partners of the corporation for liabilities in cases of fraud and insolvency. Judges in Brazil usually go after limited liability partners in cases relate to insolvency, labor and tax liabilities (McKee 60). In addition to this, the judiciary is capable of freezing cash accounts belonging to partners through a system referred to as BACENJUD and CPF until the liabilities are fully paid.

Labor laws in Brazil also favor employees and the judiciary places the burden on the company to avail documentation for any dispute. For example, labor claims such as severance fund (FTGS) are open for up to 20 years after dismissal of the case.

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