

**Proposal for Third ICLARS Conference - Religion, Democracy, and Equality**  
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**Title:** RELIGION AND ANTI-DISCRIMINATION NORMS IN BRAZIL

**Abstract:**

Brazil is a country characterized by plurality of beliefs. After its Independence in 1822, until the late nineteenth century (during the entire period of the Monarchy), it was adopted in Brazil Roman Catholicism as the official Religion (Article 5 of the Imperial Constitution of 1824). Any other faiths suffered restrictions, but they could be practiced privately or in specific places, however, without the form of a religious temple. During this period, almost all the population was Catholic. Since then, Brazilian religious settings have changed. According to the last census in 2010, 64.6% of the population remains in Roman Catholicism, while 22% are Protestant, 8% have no Religion, 3.2% declared themselves followers of other religions and 2% are spiritualists. Law made possible this pluralism. Religious freedom and free speech rights are granted to Brazilians since its first Constitution (1824). The current Federal Constitution (in force since 1988) and Legislation protect those rights, which were established as fundamental rights. However, the prominent position which freedom of speech and religious freedom enjoy in Brazilian democracy does not give them absolute protection. According to Article 5, XLII, the practice of racism is a non-bailable crime, with no limitation, subject to the penalty of confinement, under the terms of the law. Brazilian legislation prohibits biased or discriminatory language and practices. The Criminal Code defines bias-motivated verbal injury as a distinct crime, which consists in intentionally offending someone's dignity based on race, color, ethnicity, religion, origin or to the condition of the elderly or disabled person. In addition, the Anti-Discrimination Law states that acts of prejudice or discrimination are crimes and they consist in practicing, inducing or inciting discrimination or prejudice based on race, color, ethnicity, religion or national origin. According to the Supreme Federal Court jurisprudence, hate speech is an act of discrimination and must be punished. For example, the Court ruled, in the Ellwanger Case, that speeches consisting of expressions that promote hatred against religious, ethnic or racial minorities are not protected under the free speech constitutional clause. In this landmark decision,

Mr. Ellwanger's conviction was upheld because the Court found that his acts of racism, anti-Semitism, hate speech and Holocaust denial were prohibited by the Anti-Discrimination Law. Brazil also ratified the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 and approved its own Anti-Genocide Law, which defines genocide as an act committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. On the political level too some are attempting to increase the legal sensitivity for bias-motivated crimes. A bill introduced in Federal Congress would change the Criminal Code, the Anti-Discrimination Law and Labor Law in order to criminalize hate speech, discrimination or prejudice on the basis of gender, sexual orientation, and gender identity, which would limit free speech and religious freedom.

Keywords: Religious freedom; Discrimination; Brazilian Legislation.