



Name of Country and Jurisdiction:

Brazil

- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to Brazil, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to Brazil for an authority to grant a divorce/ dissolution?



1. What forms of legally recognized relationships are available?



LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Marriage, registered	Brazil	Civil Code of Brazil, Book IV, Chapters I-X, January 10, 2002 MS 32077, Conselho Nacional de Justiça [National Justice Council] May 14, 2013	Yes (per court decision)
<i>União Estável</i> [Stable Unions], registered	Brazil	ADI 4277 & ADPF 132, <i>Supremo Tribunal Federal</i> [Supreme Federal Court] May 05, 2011	Yes (per court decision)

Forthcoming changes	Although both same-sex Civil Unions (“Stable Unions”) and Marriage are now legal in Brazil and in effect through court decisions, it has not yet been codified in the Civil Code.
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2. What are the requirements to be able to enter into the above relationships?

(i) If a geographic link is required:

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	There are no geographic residency requirements in order to be married in Brazil. However, the registration process can take between 20-60 days to complete.
Stable Union	

(ii) If other substantive eligibility criteria must be satisfied:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	Substantive requirements with respect to capacity and consent.
Stable Union	

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3. If both marriage and civil unions exist:

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

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(a)	Both marriages and Stable Unions in Brazil require a civil process. Although a religious ceremony may also be performed, it is not required, and a religious ceremony alone is not sufficient to form a marriage.
(b)	Being in a Stable Union does not prevent a person from marrying the same person, although the marriage will end the Stable Union. The process involves presenting a notary public with a written application to convert the Stable Union into a marriage.
(c)	Same sex adoption is legal in Brazil, per an April 27, 2010 case before the <i>Superior Tribunal de Justiça</i> [Superior Court of Justice], Recurso Especial n.889852/RS.

Q 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?

A	<p>Marriage</p> <ul style="list-style-type: none"> If you are already married to the same or a different person, you cannot marry again, but otherwise, anyone can marry. If you have been previously granted a Stable Union, that union may be converted into a marriage by presenting a notary public with a written application to convert the Stable Union into a marriage. You may not, however, maintain both a Stable Union and a marriage (either to the same or a different person).
	<p>Stable Union</p> <p>If you are already married or have a Stable Union with the same or a different person, you cannot enter into another Stable Union.</p>

Q 5. When a couple comes to Brazil, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?

A	<p>Marriage</p> <p>Properly formed mixed and same-sex foreign marriages are recognized in Brazil.</p>
	<p>Stable Union</p> <p>Properly formed Stable Unions initiated outside of Brazil have been recognized by Brazilian courts. A May 31, 2012 case held that a same-sex couple who entered into a Civil Union in the UK could be converted to a marriage upon entry in Brazil.</p>

Q 6. How can each form of relationship be dissolved? What is the residency requirement or other link to Brazil for an authority to grant a divorce/ dissolution?

A	<p>Marriage</p> <ul style="list-style-type: none"> Divorce in Brazil is governed by the Civil Code of Brazil, Chapter X. Per Law Number 11.441/2007, couples can hire a common attorney (called a Single Intervient Attorney) who, along with a public notary, can execute a divorce. Divorces of marriages formed in Brazil are not automatically recognized if performed outside of Brazil. A judicial process called homologação de sentença estrangeira [homologation of the foreign sentence] controls the foreign-divorce process, and ultimately requires ratification of the Superior Court of Justice before it will be approved. No information was found to suggest a distinction exists between dissolving a Stable Union or a Divorce.
	<p>Stable union</p> <ul style="list-style-type: none"> Comparable to rules to marriage. Partners may jointly apply for dissolution, which must be granted, if court is convinced that application has been made voluntarily and after careful consideration. An unilateral application is possible after one year`s separation.

■ Sources:

- Civil Code of Brazil, Lei n° 10.406, de 10 de janeiro de 2002 (Código Civil), (January 2003), available at http://www.wipo.int/wipolex/en/text.jsp?file_id=226199.
- <http://quod.lib.umich.edu/cgi/p/pod/dod-idx/recent-supreme-court-ruling-on-same-sex-unions-in-brazil.pdf?c=ijj;idno=11645653.0001.103>
- ADI 4277 & ADPF 132, *Supremo Tribunal Federal* [Supreme Federal Court]
- May 05, 2011
- MS 32077, *Conselho Nacional de Justiça* [National Justice Council]
- May 14, 2013
- <http://tj-rs.jusbrasil.com.br/noticias/3140990/reconhecido-casamento-entre-homens-registrado-no-exterior>
- <http://thebrazilbusiness.com/article/how-to-get-a-divorce-in-brazil>
- Recurso Especial n.889852/RS, julgado em 27 de abril de 2010, Quarta Turma do Superior Tribunal de Justiça.