

The background features a dark blue gradient with a starry space pattern. Overlaid on this are several technical graphics: a large circular scale with numerical markings (150, 160, 170, 180, 190, 200, 210, 220, 230, 240, 250, 260) and arrows, and various concentric circles and dashed lines, suggesting a technical or scientific theme.

THE ROLE OF THE INTERNATIONAL LABOR ORGANIZATION IN STRENGTHENING LABOR LAW IN BRAZIL

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THE ILO

- Tripartite composition. Consensus standards. Government, workers, and employers.
- Easier acceptance and assimilation
- ILO instruments of control. Without imposition. Less resistance.
- Without direct legal and economic enforcement. Only moral sanctions
- It stimulates members to ratify the ILO conventions.

BRAZILIAN CONSTITUTION OF 1988



BRAZILIAN CONSTITUTION OF 1988

- TITLE II – Fundamental rights and guarantees.
- Chapter I – Individual and collective rights and duties; Chapter II - Social rights; Chapter III – Nationality; Chapter IV – Political rights
- Article 5
- Paragraph 2. The rights and guarantees expressed in this Constitution do not exclude others deriving from the regime and from the principles adopted by it, or from the international treaties in which the Federative Republic of Brazil is a party.
- Paragraph 3. International human rights treaties and conventions which are approved in each House of the National Congress, in two rounds of voting, by three fifths of the votes of the respective members shall be equivalent to constitutional amendments
- Article 7. The following are rights of urban and rural workers, among others that aim to improve their social conditions

BRAZIL AND THE ILO

- ILO Member since 28.06.1919
- Ratified conventions: 97 (7 fundamental; 3 governance; 87 technical)
- Not ratified conventions: 26
- Fundamental convention not ratified: 87
- Article 8 of the Brazilian Constitution
- II – it is forbidden to create more than one union, at any level, representing a professional or economic category, in the same territorial base, which shall be defined by the workers or employers concerned, which base may not cover less than the area of one municipality;

RELATION BETWEEN INTERNATIONAL LAW AND DOMESTIC LAW IN BRAZIL

- International Law. Relation and control.
- Traditional conception: sovereignty; domestic law prevalence.
- Parity between ordinary law and international treaties of human rights.
- Problems: human rights in international treaties are rights of the second category compared to fundamental rights in the Constitution.

SUPREME FEDERAL COURT



SUPREME FEDERAL COURT

- The court overrode the parity understanding between international treaties of human rights and ordinary law. RE 466.343 DEJ 05/06/2009.
- International treaties are above the laws but below the Constitution.
- Since then, scholars intensified the studies about the control of conventionality performed by the Brazilian Courts.

PRINCIPIO PRO PERSONA

- Human beings' centrality in the contemporary International Law
- The centrality of the work in the life of people
- An interpretation that promotes human dignity and its effectiveness
- In the case of concurrence between International and domestic law should prevail the most favorable provision.

SUPREME FEDERAL COURT

- AI-ED 448572. DJE 16/12/2010 – objective confirmation of pregnancy – employment protection – ILO 103 Convention.
- ADI 5794. DJE 22/04/2019 – End of mandatory agency fees to trade unions by labor reform – ILO Convention 87
- ADI 3470. DJE 01/02/2019 – Banning of asbestos – ILO Conventions 139 and 162
- ADI 3239. DJE 01/02/2019 – Identification and demarcation of land from “quilombola” communities. ILO Convention 169

SUPERIOR LABOR COURT



SUPERIOR LABOR COURT AND ILO CONVENTIONS

- Ban and embargo in building construction or repair – competence – ILO Convention 81
- (AIRR 2476-17.2013 – DEJT 05/07/2019)
- Dismissal of ill employees – discrimination – ILO Convention 111
- (AG-AIRR 24335-36.2015 – DEJT 21/06/2019)

SUPERIOR LABOR COURT AND ILO CONVENTIONS

- People with disabilities – inclusion in the labor market. UN Convention on the rights of persons with disabilities - ILO Convention 159 (RR-1076-13.2012 – DEJT 03/05/2019)
- Unhealthiness conditions of work – flexibility is not allowed ILO Convention 155 (RR 588-54.2013 - DEJT 24/05/2019)
- Fees paid by the company to the workers' trade unions ILO Convention 98 (RO 930-78.2017 – DEJT 15/10/2018)
- Employees do not submit to the control of time journey – the right to have a day off – ILO Convention 1 (Brazil did not ratify this convention – but it is used as additional reason for some decisions (ARR 1605-61.2016 – DEJT 05/04/2019)

THE LABOR REFORM ACT 13.467/2017

- Huge changing of the Labor Law (The Consolidation of Labor Laws – 1943). Some of them violate ILO Conventions
- Examples:
- Collective bargaining prevails over protective legislation, even less favorable (art. 611-A). ILO Convention 98. Brazil is in the list of the Committee of Experts.
- Equivalence between collective dismissal and individual dismissal. ILO Conventions 98 and 158.

CONCLUSION

- “Labor is not a commodity (Declaration of Philadelphia). Labor is not an inanimate product, like an apple or a television set, that can be negotiated for the highest profit or the lowest price. Work is part of everyone’s daily life and is crucial to a person’s dignity, well-being and development as a human being”. (Rules of the Game – ILO 1919-2019)