

**Stonewall**

# ABOUT THIS RESOURCE

**This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.**

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at [www.stonewall.org.uk](http://www.stonewall.org.uk)

**Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)**

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

# STONEWALL GLOBAL WORKPLACE BRIEFINGS

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## APAC

### ASIA PACIFIC PACK

Australia, China, Hong Kong, India, Indonesia, Japan, Malaysia, Singapore, South Korea, Thailand and The Philippines



# AUSTRALIA



Population: 23+ million



Stonewall Global Diversity Champions: 64

Stonewall  
GLOBAL  
DIVERSITY  
CHAMPIONS



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Australia is classified as a Zone 1 country, which means sexual acts between people of the same sex are legal and clear national employment protections exist for lesbian, gay, and bi people.

Two further zones exist. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The Australian **Constitution** does **not explicitly guarantee rights to freedom of expression, association and assembly**.

The High Court of Australia has recognised a limited, **implied right of freedom of communication** in relation to political and governmental issues.

Each State and Territory permits **freedom of assembly and association**, subject to restrictions relating to public order, public health or public amenity.

**Some States and Territories** (New South Wales, Queensland, Victoria, the Australian Capital Territory and Tasmania) **prohibit vilification of LGBT** persons.

### FAMILY AND RELATIONSHIPS

**Sexual acts** between people of the same sex are **legal**.

There is an **equal age of consent** for sexual acts regardless of gender.

**Same-sex marriage** is **legal** as a result of the law reform in December 2017, the Marriage Act 1961. **Overseas marriages** between same-sex persons are **automatically recognised** under Federal law.

**Unmarried same-sex couples** are **recognised as de-facto couples** under Australian Federal law, with **most of the same rights** as married couples.

Same-sex de-facto couples have **equal recognition** in respect of **taxation, social security, health** and other Federal government services.

**Same-sex couples** may also enter into **civil unions or domestic partnerships** in **some States and Territories** in Australia.

**Same-sex couples** have **equal rights to adopt** children in all States and Territories in Australia except the Northern Territory.

**Trans people** may enter into a **marriage with a person of either gender**.

**By 9 December 2018**, all States and Territories must **no longer ban married trans people** from **changing their gender** to that of their married spouse **without first divorcing**.

### EQUALITY AND EMPLOYMENT

The Sex Discrimination Act 1984 **prohibits discrimination in employment** and certain areas of **public life on the grounds of sexual orientation, gender identity and intersex status**.

**Some States' and Territories'** sentencing legislation **treats crimes based on a person's sexual orientation** or because of hate towards a group of people as an **aggravating factor in sentencing**.

In **some States and Territories** it is a **criminal offence to incite hatred** towards, show serious **contempt** for, or severe **ridicule of, people** who identify as **LGBT**.

### GENDER IDENTITY

Each State and Territory **allows trans people to change their legal gender and name on birth certificates and official registers**.

The **majority of States and Territories** only allow for the gender to be changed to 'female' or 'male' but **do not permit a person to change their gender to 'unspecified'**.

**Passports** can be **issued** with a person's **changed legal gender (including noting the gender as indeterminate/ unspecified)** under the Australian Passports Act 2005.

**Each State and Territory, except the Australian Capital Territory**, requires **medical intervention and medical evidence** to support an application to change a person's legal gender.

**Intersex people** in the **Australian Capital Territory** can **change their legal gender without medical intervention**.

If a person is **under 18 years** of age, the **Family Court must authorise any gender reassignment surgery**, even where there is parental consent to the treatment.

### IMMIGRATION

The Migration Act 1958 enables **temporary and permanent residency of same-sex partners** of Australian citizens, residents and eligible New Zealand citizens.

## A VIEW FROM AUSTRALIA

**Mark Latchford** is the associate director of Pride in Diversity, an organisation dedicated to LGBTI workplace inclusion. Pride in Diversity offers support, training and consulting to employers to further LGBTI workplace inclusivity. Pride in Diversity also publishes the Australian Workplace Equality Index (AWEI), and aims to tackle homophobia, biphobia and transphobia in sport and healthcare via its partner programmes, Pride in Sport and Pride in Health + Wellbeing.



### What have been some recent legal developments for LGBT people in Australia?

In the last few years, the legal landscape for LGBTI rights in Australia has changed significantly. Discrimination on the grounds of sexual orientation, gender identity and intersex status is prohibited by federal legislation (as well as most state and territory laws). Same-sex conduct offences have been removed in all Australian jurisdictions – and there are some efforts to help erase historical criminal convictions. The partial defence of an unwelcome 'homosexual advance' to the charge of murder is no longer available. The greatest recent legal change has been the legalisation of same-sex marriage in December 2017. This was the result of 13 years of campaigning, as well as a postal survey that served as a non-binding referendum.

### What's been the impact of the same-sex marriage postal survey?

The government promised it would pass the Same Sex Marriage Bill if the 'yes' vote was successful but would squash the bill if it was not. Although the 'yes' vote won with 61.6 per cent and marriage equality was passed, campaigns for the 'no' vote had a harmful effect on the LGBT community. Hurtful and wrong information was released as part of these campaigns. For example, one TV ad stated that boys would have to wear dresses to school if people voted 'yes'. The overall impact of the hate messages on the LGBT community will not be known for some time. However, a survey carried out by the Australian Institute, which included LGBT people, their friends and families, showed that almost 90 per cent of LGBTI people said that the campaign had a negative impact on them to some degree. For example, the number of LGBTI respondents experiencing depression, anxiety and stress increased by more than a third after the announcement of the postal vote. Almost 70 per cent of LGBTI people said they 'avoided' being with people in general at least some of the time as a method of coping. However, resilience and positive coping strategies were also evident. For example, 80 per cent of respondents participated in LGBTI-affirmative activities such as attending marches, raising awareness and displaying 'yes' or rainbow images.

### What are the biggest barriers to inclusion in Australian society?

Although a lot of progress on LGBTI inclusion has been made in many major Australian workplaces, institutional barriers continue to exist in sport, health and other human/social services. As an example, the recent Out on the Fields research indicated that 80 per cent of participants witnessed or experienced

homophobia in sport (both LGB and non-LGB participants). It is for this reason that Pride in Diversity has expanded its scope to specifically target these areas. We launched Pride in Sport in March 2016 and in 2017 we'll launch a programme dedicated to health.

### What is the workplace like for LGBT people in Australia?

Although direct and indirect discrimination against LGBTI people in the workplace is generally prohibited by federal legislation for all employers (there are some religious exemptions), there is still a lot of work to be done in engaging employers in LGBTI workplace inclusion. The 2017 AWEI benchmarked 116 employers nationally and saw 16,759 employees respond to the accompanying employee survey. The number of employees out in the workplace is often an indicator of an organisation's inclusivity. However, the survey showed that fewer lesbian, gay and bi people were open about their sexual orientation in the workplace than in previous years. Respondents working at those organisations active in inclusion were more likely to be out (77 per cent) than those working at organisations new to inclusion (64 per cent).

### What can employers do to support their LGBT employees and the LGBT movement in Australia?

There are many social barriers to inclusion for LGBTI people in Australia. Young people in our community are exposed to these barriers from a very early age, including through political discourse and messaging in the media, which can influence the behaviour of their peers in schools. Accordingly, workplaces trying to build an LGBTI-inclusive culture, have to address the impact of these social disadvantages in order to make a real difference to the lived professional experience of their LGBTI staff. This involves first learning about how these social barriers have an impact on people's professional lives. It also means creating specific structural initiatives that support LGBTI staff in very explicit terms.

Part of the training that we offer through Pride in Diversity helps workplaces to understand why ambiguous messaging can reinforce the reluctance of LGBTI people to bring their full selves to work. Once these foundational steps have been taken, workplaces that have experienced a lot of success in this space have entered into a phase of meaningful engagement with the LGBTI community, in order to understand how they can best support their staff and input into important LGBTI causes that have wider relevance.

## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Australia:

-  **Consult local LGBT organisations to understand the local context for LGBT people**
-  **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
-  **Train HR staff and promote inclusive policies**
-  **Carry out LGBT-inclusive diversity training**
-  **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

-  **Audit and extend equal benefits to LGBT partners**
-  **Establish employee engagement mechanisms like LGBT networks and allies programmes**
-  **Carry out LGBT awareness-raising events**
-  **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
-  **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

**Pinsent Masons** Pinsent Masons believes everyone should be fully equal in the workplace. Within months of the opening of Pinsent Masons' new offices in Melbourne, Sydney, and Perth in 2016, the firm's commitment to LGBT equality was confirmed by its new team and communicated locally. Shortly after the launch, head of Pinsent Masons in Australia and senior ally, David Rennick, publicly stated the firm's support for the marriage equality campaign with an open letter published by the Australian Marriage Equality Organisation. More recently, David communicated to the office the firm's position on diversity and inclusion, providing a link to support employees through the marriage equality debate and vote at the time. Allies at Pinsent Masons make a commitment to championing LGBT equality across the business, working together to create a culture where everyone is equal. With senior-level support from two partners in Australia, Pinsent Masons successfully rolled out a global ally initiative with a poster campaign in Melbourne and Sydney. This raised the profile of the programme among colleagues and encouraged new members to join. Allies in the Australian offices are visible on a day-to-day basis, identified with rainbow mugs on their desks and profiled on the firm's intranet to help clearly demonstrate their support for the initiative. In 2015, during a secondment to the firm's Australian offices, one of the firm's London-based LGBT network representatives established a relationship between Australian allies and Pride in Diversity, an Australian organisation seeking to promote sexual orientation and gender identity diversity in the workplace. Pinsent Masons remains represented at their roundtable discussions with other prominent organisations in Australia. In 2016, the firm's Melbourne and Sydney offices participated in a new LGBT-inclusive webinar training course on unconscious bias, and in 2017, completed a compulsory LGBTI awareness session. This training now runs annually for all new starters. The three offices also actively participate in the firm's annual Diversity Week event.

**Allen & Overy** A&O, Allen & Overy's global LGBT staff network, aims to create an equal and inclusive workplace for LGBT employees across the world. The chapter in Australia plays a key part in contributing to global initiatives and driving change locally and across the Asia Pacific region. With visible support from the firm's regional managing partner, A&O host events in support of LGBT equality and shares best practice by taking part in networking and round-table events with other businesses and LGBT groups. In 2016 the firm formally launched their global allies programme to increase the level and visibility and support for their LGBT colleagues. The initiative has been hugely popular and the firm now have over 700 allies globally. In the Sydney office the reception area boasts an 'ally wall' where allies can pledge their support for the LGBT community. The wall is a way of raising the visibility of the network to staff members and visitors and encouraging new members to sign up. Rainbow flags and branded coffee mugs for LGBT staff and allies also make support in the office evident and colourful. A partnership with a local LGBT organisation, Pride in Diversity, help Allen & Overy get a better understanding of the local context for LGBT people. Training has been key to Allen & Overy's success. Internal practices have been improved thanks to Pride in Diversity's face to face and online training sessions and, as an active member of the Diversity Council of Australia, the firm has benefited from training sessions and webinars on LGBT equality topics.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**January / February** – Midsumma Festival. [www.midsumma.org.au](http://www.midsumma.org.au)

**February / March** – Sydney Gay and Lesbian Mardi Gras.  
[www.mardigras.org.au](http://www.mardigras.org.au)

**March** – Brisbane Queer Film Festival. [www.bqff.com.au](http://www.bqff.com.au)

Check the events websites for the most up-to-date information on dates.

**September** – Alice Springs Pride Carnivale.  
[www.facebook.com/AliceSpringsPrideCarnivale](http://www.facebook.com/AliceSpringsPrideCarnivale)

**October** – Feast Festival Adelaide [www.feast.org.au](http://www.feast.org.au)



### FIND LGBT GROUPS AND COMMUNITIES

**Diversity Council Australia** – a membership organisation for diversity and inclusion in the workplace. [www.dca.org.au](http://www.dca.org.au)

**Gay & Lesbian Rights Lobby** – a group working to advance equality of the LGBTIQ community, providing referral and educative resources to the media, policy makers and the LGBTIQ community. [www.glrll.org.au](http://www.glrll.org.au)

**Kaleidoscope Australia Human Rights Foundation** – an organisation working to advance LGBTIQ rights in the Asia Pacific region through shadow reporting, awareness raising and capacity building with local communities. [www.kaleidoscopeaustralia.com](http://www.kaleidoscopeaustralia.com)

**National LGBTI Health Alliance** – an alliance for groups and individuals focused on health issues within the LGBTI community, offering a range of training and professional development opportunities to its members. [www.lgbtihealth.org.au](http://www.lgbtihealth.org.au)

**Pride in Diversity** – an organisation dedicated to LGBTI workplace inclusion, offering support, training and consultation to employers. [www.prideindiversity.com.au](http://www.prideindiversity.com.au)

**Switchboard Victoria Incorporated** – a volunteer organisation providing telephone counselling and information services for LGBTI people. [www.switchboard.org.au](http://www.switchboard.org.au)

**Zoe Bell Gender Collective** – a Melbourne-based group providing support, information and educational seminars for trans and gender-diverse communities. The collective also acts as a network for trans people to advertise rooms, events and groups to one another. [www.zbgc.com.au](http://www.zbgc.com.au)



### GET LOCAL LGBT NEWS

**Lesbians on the loose** – an online magazine for lesbian, bi and queer women. [www.lotl.com](http://www.lotl.com)

**QNews** – an LGBTIQ lifestyle magazine from Queensland. [www.qnews.com.au](http://www.qnews.com.au)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 64 ORGANISATIONS OPERATING IN AUSTRALIA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Legal Partner



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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)



# CHINA



Population: 1.37 billion people



Stonewall Global Diversity Champions: 68



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

China is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The Constitution guarantees rights to **freedom of expression, association and assembly** under Article 35.

**LGBT assemblies and associations** are subject to the **same laws and regulations governing all** other assemblies and civil society organisations.

Under **copyright rules** passed in 2017, **online content will be edited or even banned** if it concerns "abnormal sexual behaviours" which is meant to **include same-sex relationships**.

### FAMILY AND SAME-SEX RELATIONSHIPS

**Sexual acts between people of the same sex** are **legal** and were decriminalised in 1997.

In 2001, the Chinese Ministry of Health **removed homosexuality** from its **list of mental illnesses** in the third edition of the Chinese Standards for Classification and Diagnosis of Mental Disorders.

There is an **equal age of consent** of 14 years for sexual acts regardless of gender under Article 237 of the Criminal Law.

**Same-sex marriage** is **not legal** because the Marriage Law defines marriage as a union between one man and one woman.

**Same-sex relationships** are **not otherwise recognised** by law.

**Same-sex couples** have **no legal right to adopt** children. Although no law expressly prohibits same-sex couples from adopting, this is generally not allowed in practice.

### EQUALITY AND EMPLOYMENT

Article 35 of the Constitution states **everyone is equal before the law**, but there is **no explicit reference to sexual orientation and gender identity**.

**Employment discrimination** based on **certain grounds** is **prohibited** under Article 12 of the Labour Law. **Sexual orientation and gender identity are not included** in the list of grounds.

### GENDER IDENTITY

**Trans people can change** their **legal gender** from **female to male** or vice versa on **identity cards** and for **Household Registration (Hukou)** under Guidelines published by the Ministry of Public Security dated 23 October 2008.

Legal gender change is **subject to sex reassignment surgery, a medical certificate** and a certificate from the **notary/judicial appraisal authority**.

**Trans people can change** their legal **name** on **identity cards** and for **Household Registration (Hukou)** under Article 18 of Regulation on Household Registration. The legal **name on passports can also be changed** after relevant changes have been made to identity cards and Household Registration.

Legal name change is **subject to local administrative rules**.

### IMMIGRATION

There are **no legal provisions** that specifically **support immigration of same-sex partners**.



## A VIEW FROM CHINA

**Jacob Huang** is the corporate programmes director at Aibai Culture and Education Centre, based in Beijing. Aibai was established in 1999 and has three key strategies: strengthening community alliances, public advocacy and providing medical services and care to people living with HIV. Its work also involves cooperating with national and multinational corporations to promote workplace diversity.



### How are LGBT people treated by society in China?

LGBT people are largely invisible and neglected in society, mainly because of the serious lack of education and awareness about sexual orientation and gender identity in schools, workplaces and other public spheres. This leads to many LGBT people being closeted their whole lives. However, for younger generations the social mobility and access to information provided by the internet is changing the conversation quickly. Theoretically, LGBT people in China enjoy the rights to freedom of expression, association and assembly but in reality, these rights are often violated. However, the reasons for this can be very complex and require deeper study of China's cultural and political background.

### What specific issues do lesbians, bi women and trans people face?

Lesbians and bi women face not only homophobic and biphobic discrimination, but also sexism. This is especially prevalent in the workplace. There is also a lack of any prominent lesbian role models in Chinese society. In addition, within the LGBT community the voices of bi women often go unheard.

The trans community faces multiple challenges and mostly has to remain invisible in order for trans people to survive. There are now some young trans leaders and younger generations are starting to raise their voices. But compared with lesbian and gay communities, trans communities are still far more vulnerable with little representation.

### How are LGBT people portrayed in the media?

The official newspapers and news controlled by the government will not carry any positive LGBT messages and will often reject any discussion of LGBT rights. Social media and independent media sources quite frequently address LGBT issues but can be damaging because they paint a narrow perspective of LGBT lives.

Since the central government passed a new law on internet safety and regulation in 2017, same-sex relationships have become more of a taboo and the media (including online media platforms such as Wechat or Weibo) cannot address them. Several LGBT-related words, such as 'homosexuality' are listed as both sensitive and negative, meaning they should not be seen on public screens. This increased control and restriction of freedom of speech makes it even more challenging than before to advocate for LGBT rights in China.

### What is the workplace like for LGBT people?

From a survey we conducted of 2,000 LGB employees, only 6 per cent were open about their sexual orientation in the workplace. The low figure is mainly because participants feared coming out would harm their career progression. The low figure is also contributed to by Chinese cultural norms, which inhibit people being proud of their difference and treat work life and personal life as very separate.

Gender equality is often seen as the diversity priority for workplaces in China - sadly this only refers to equal rights for women, and not the broadened spectrum of all genders, for example non-binary people. Even here, stigma and stereotypes remain given the deep-rooted mindset from the older generations, who, growing up, were taught that men and women have different roles in society. This is still the dominant belief especially in the rural areas of China.

### Do international or Chinese organisations publicly support LGBT equality?






Aibai has held five workplace conferences on LGBT equality in Beijing. A few Asian multinationals participated but the majority of multinationals supporting the event were from America and Europe, including IBM as a main sponsor. Efforts by organisations to improve workplace environments are low key and focused on internal practices such as equal benefits and workshops to improve awareness. Public support for LGBT rights is extremely rare.



## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps that employers can take to start creating a supportive workplace environment for their LGBT employees in China:

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|--|---|
| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
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### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li> <b>Audit and extend partner benefits to same-sex partners</b></li> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
|--|--|

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### IBM

IBM has used a number of avenues to build an LGBT-inclusive culture for employees in China. IBM's global diversity strategy encouraged employees in China to set up an LGBT employee network called EAGLE, as well as a wider EAGLE and friends group open to all employees. The latter enables the protection of LGBT employees' privacy and was seen as especially important in the context of Chinese culture. Senior leadership supports EAGLE through an executive sponsor. IBM also runs ally training as well as a reverse-mentoring programme, in which LGBT employees are mentors and line managers are mentees. In 2011, IBM China extended benefits to same-sex partners. To demonstrate the status of the same-sex partnership, employees sign an IBM affidavit form confirming their relationship with their partner. Each June is LGBT Pride month, during which awareness-raising events open to all employees are organized. IBM has also been working actively with local NGOs and other companies to advance LGBT workplace equality in China. This has included initiating and supporting the LGBT diversity in workplace forums with Aibai, and sponsoring Community Business's resource guide *Creating Inclusive Workplaces for LGBT Employees in China*.

### Goldman Sachs

Goldman Sachs is committed to providing equal opportunities for all staff. It offers both instructor-led and online LGBT training to its employees in China. The instructor-led training is mandatory for executive and managing directors, and covers terminology associated with sexual orientation as well as best practice on creating LGBT-inclusive workplace environments. Outside of the workplace, in 2014 the bank partnered with the Beijing LGBT Centre and the Aibai Culture and Education Centre to provide career coaching to LGBT university students. Following the success of the event, another career workshop was hosted in Goldman Sachs' offices in 2015. The event was covered in the media and helped 25 LGBT students with their career aspirations. Asian executive director, Paul Choi, further demonstrated Goldman Sachs' commitment to LGBT equality by speaking at the Shanghai Pride parade in 2014.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**June** - Shanghai Pride. [www.shpride.com](http://www.shpride.com)

**September** - Shanghai Queer Film Festival. [www.shqff.org](http://www.shqff.org)

Check the events websites for the most up-to-date information on dates.



### FIND LGBT GROUPS AND COMMUNITIES

**Aibai Culture and Education** - an organisation promoting LGBT equality by engaging in employment equality work, public advocacy, the building of community alliances and service provision. [www.aibai.com](http://www.aibai.com)

**Beijing LGBT Centre** - a community-based LGBT organisation providing social services and organising advocacy programmes and events. The group offers different models for corporate sponsorship. [www.bjlgbtcenter.org.cn](http://www.bjlgbtcenter.org.cn)

**Haixi Tongxin** - a community-based group focusing on raising awareness and increasing the visibility of sexual minorities in Taiwan. <https://site.douban.com/144956/>

**Out China** - a group and online platform raising awareness and increasing the visibility of the LGBT community by telling personal stories in English and Chinese. Also includes a map of LGBT groups across China. [www.chinalgbt.org](http://www.chinalgbt.org)

**PFLAG China** - a group for parents, families and friends of LGBT people that works to support LGBT people in China. [www.pflag.org.cn](http://www.pflag.org.cn)

**Tongyu Lala** - an advocacy group dedicated to community mobilisation, public awareness and legal advocacy. [www.tongyulala.org](http://www.tongyulala.org)



### GET LOCAL LGBT UPDATES

**Speak Out** – a podcast on LGBT issues in Chinese. [www.weibo.com/speakout2014](http://www.weibo.com/speakout2014)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 68 ORGANISATIONS OPERATING IN CHINA.

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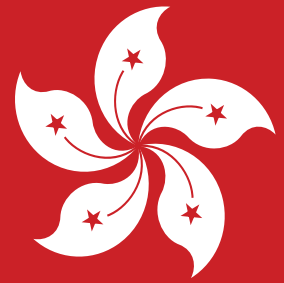
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Legal Partner



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# HONG KONG



Population: 7+ million people



Stonewall Global Diversity Champions: 55



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations

Hong Kong is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation, while in Zone 3 countries sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The **rights to freedom of expression, association and assembly** are guaranteed to all residents under Article 27 of the Basic Law and Articles 16-18 of the Hong Kong Bill of Rights Ordinance.

There are **no LGBT-specific restrictions or additions** to these rights.

### FAMILY AND SAME-SEX RELATIONSHIPS

**Sexual acts** between people of the same sex are **legal**.

There is an **equal age of consent** of 16 years for sexual acts regardless of gender as ruled by the Court of Appeal in 2006 ('William Roy Leung' case).

**Same-sex marriage is not legal** and marriage is defined as a union between a man and a woman under Section 40 of the Marriage Ordinance.

**Trans people** who have undergone **gender reassignment surgery can enter a heterosexual marriage** in the self-identified gender as ruled by the Court of Final Appeal in 2013 ('W' case).

**Same-sex relationships are not recognised** by law in the form of civil unions or domestic partnerships.

However, there are some **limited rights available to same-sex cohabiting couples** in accordance with Section 2 of the Domestic and Cohabitation Relationships Violence Ordinance (as amended in 2009), providing **injunctive protection** for a victim in **circumstances of domestic violence** involving two persons of the same sex.

In 2017, a first instance **court allowed the same-sex partner** of a civil servant, having registered their partnership in a third country, to **receive spousal benefits and allowances** but **did not allow for tax breaks** available to married people ('Leung Chun Kwong' case). An appeal is ongoing at time of writing.

**Same-sex couples cannot adopt** under the Adoption Ordinance. The Ordinance recognises the possibility of a **'sole applicant' without any reference to LGBT people**, but it is **unclear** how this is applied to LGBT people in practice.

### EQUALITY AND EMPLOYMENT

Article 25 of the Basic Law states that **all residents are equal before the law**, but it **does not explicitly refer to sexual orientation and gender identity**.

**Discrimination by public authorities** based on any 'status' is **prohibited** in accordance with Article 22 under Section 8 of the Hong Kong Bill of Rights Ordinance.

This has been interpreted by the courts as **covering discrimination based on sexual orientation** ('William Roy Leung' case) but has not yet been tested in regard to gender identity.

There is **no comprehensive law prohibiting employment discrimination** based on **sexual orientation or gender identity**.

**Hate crimes based on sexual orientation or gender identity are not specifically considered** as an aggravating circumstance in sentencing.

### GENDER IDENTITY

The **Immigration Department is in charge of the legal gender change process**, in accordance with an administrative scheme.

Under the scheme, **trans people can change their name and legal gender on some identification documents** (but not the birth certificate) by applying to the Commissioner of Registration.

The legal gender **can only be changed to male or female**.

The legal gender, together with the corresponding name change, is **subject to gender reassignment surgery, including sterilisation**.

The government is **currently conducting** a round of **public consultation** on whether to introduce a legislative framework for gender recognition.

**Publicly funded medical treatment for trans people** is available through the Hospital Authority.

### IMMIGRATION

In 2017 the Court of Appeal ruled that a **same-sex partner of a non-permanent resident** working in Hong Kong, had the **right to apply for a dependent visa in light of their registered partnership** in a third country ('QT' case).

It has **not yet been tested in courts** if this would also **apply to a partner of a permanent resident**.



## A VIEW FROM HONG KONG

**Fern Ngai** is CEO of Community Business, a Hong Kong-based not-for-profit organisation working with companies of all sizes from diverse industries across Asia to promote responsible and inclusive business.

COMMUNITY BUSINESS



### How are LGBT people treated by society in Hong Kong?

Sexual orientation, gender identity and intersex are generally perceived as sensitive or even taboo subjects. Despite being an international modern city, Hong Kong's culture is still traditional in many respects. Traditional Asian family values run deep; getting married and having children is considered the 'norm' and they are also key to fulfilling obligations of filial piety or respect to one's elders. There is also strong opposition to LGBT+ rights from groups with evangelical Christian ties. The government has used this context to justify its lack of legislative action. In the absence of clear legal protection, discrimination and unfair treatment against LGBT+ individuals is commonplace across all areas of life. However, societal attitudes are changing – the LGBT+ community is becoming more visible. Research such as our *Hong Kong LGBT Climate Study 2011/12* and the 2016 report commissioned by the Equal Opportunities Commission indicate that Hong Kong people, especially younger generations, are far more accepting than was previously assumed. Hong Kong has been selected as host city for the Gay Games 2022. This will be a tremendous opportunity to demonstrate to the world how open and inclusive Hong Kong is and elevate its standing as a global business centre.

### Which specific issues affect lesbians, bi women and trans people?

It's less common for lesbian and bi women to be out than gay and bi men, thus women are less visible in the Hong Kong LGBT+ community. The trans community faces much discrimination and stigma. For example, there have been a number of human rights cases involving trans individuals, including a trans woman who was sexually harassed and denied hormone treatments while being incarcerated in an all-male prison. Hong Kong has archaic gender recognition laws which do not respect a trans individual's right to be fully legally recognised in their affirmed gender. In 2013, the Court of Final Appeal observed that the government should address legal issues faced by the trans community through legislation. However, there has been very little progress. The government is currently conducting a public consultation before taking any legislative action.

### How are LGBT people portrayed in the media?

Only in recent years have LGBT+ issues been openly and fairly reported on in the media. In the absence of inclusive laws, the LGBT+ community has had to resort to judicial action. This has seen a number of successful landmark court cases that have captured the public's attention, including cases on civil servant partner benefits and same-sex partner visas. The growing momentum of community initiatives such as the Hong Kong Pride Parade, Pink Season, Pink Dot, and the Hong Kong Lesbian and Gay Film Festival have also helped bring LGBT+ issues into public discourse. While there have been instances of negative coverage in some local media, the leading media outlets are generally balanced, reasonable and sympathetic towards LGBT+ issues. They

see the benefit of promoting a more open and inclusive Hong Kong. In the local film and TV industry, LGBT+ people are often depicted in stereotypical roles, although some progress has been made towards featuring positive LGBT+ characters and relationships.

### What is the workplace like for LGBT people?

While instances of direct bullying and violence may often be uncommon, many indirect forms of harassment occur. This creates non-inclusive, intimidating or even hostile work environments, with a negative impact on the well-being, productivity and engagement of LGBT+ staff. The majority of LGBT+ employees are not open at work for fear of repercussions and feel that a non-inclusive environment has a negative impact on their well-being, productivity and levels of engagement. Cultural considerations mean that LGBT+ employees in Hong Kong are unlikely to openly voice their concerns or confide in their HR departments. Recently however, multinational companies have made great strides in creating more inclusive workplaces and have visibly shown their support for LGBT+ equality. For example, in 2017 over 75 major organisations supported the Equal Opportunities Commission's call for the government to introduce anti-discrimination legislation to protect the LGBT+ community. Over 50 companies participated in the 2017 iteration of Community Business's biennial Hong Kong LGBT+ Inclusion Index.

### What can organisations do to promote equality in the workplace?

One way is to participate in Hong Kong's LGBT+ Inclusion Index, Asia's first benchmarking tool for assessing business and workplace policies and practices. A robust tool, the Index helps businesses to adopt best practice and create an inclusive workplace, contributing to a more inclusive society. Participation has increased significantly since the Index began in 2015. A small and medium-sized enterprise version of the Index has also been introduced.

## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in India:

- ✓ **Consult local LGBT organisations to understand the local context for LGBT people**
- ✓ **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
- ✓ **Train HR staff and promote inclusive policies**
- ✓ **Carry out LGBT-inclusive diversity training**
- ✓ **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- ✓ **Audit and extend partner benefits to same-sex partners**
- ✓ **Establish employee engagement mechanisms like LGBT networks and allies programmes**
- ✓ **Carry out LGBT awareness-raising events**
- ✓ **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
- ✓ **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEMALL'S GLOBAL DIVERSITY CHAMPIONS

**Barclays** Barclays sponsors events to build awareness and encourage engagement around LGBT issues in Hong Kong. These previously included the Hong Kong Pride Parade, the Pink Dot Hong Kong event, and the LGBT Film Festival with a post-screening networking event. Barclays also sends speakers to LGBT events, for instance at the Asia Pacific Diversity & Inclusion Conference. Building community awareness and supporting local LGBT projects, Barclays held a fundraising history walk in support of Project Touch, a support programme for LGBT youth and their families in Hong Kong. Barclays employees also participated in the Queer Straight Alliance mentoring scheme to support the career and personal development of mentees and build networks across industries.

**Norton Rose Fulbright** Norton Rose Fulbright's diversity and inclusion policy in Hong Kong expressly prohibits discrimination based on sexual orientation and gender identity. The firm also offers equal employee partner benefits regardless of whether they are in same-sex or different-sex relationships. For instance, this includes medical insurance cover for partners of staff. The firm also took part in, and sponsored, the 2017 Inclusion Recruitment Conference organised by the Queer Straight Alliance. The conference is a platform for students to connect with representatives from top-tier businesses that commit to diversity and inclusion in Hong Kong.

**Herbert Smith Freehills** Herbert Smith Freehills' (HSF) global LGBT staff network, IRIS (Inclusion, Respecting Identity and Sexuality), is open for LGBT staff and partners as well as their allies. In 2016, the global network was launched to better connect existing local network chapters around the world, including the chapter in Hong Kong. A launch event was held in Hong Kong, where a speaker from Community Business led a training session on LGBT+ issues for employees. An integral part of IRIS is the ally programme that works to support LGBT+ employees in the workplace. For example, many allies display rainbow-coloured 'ally cards' in the Hong Kong office to show their support to the LGBT+ community. These cards state that being an ally is 'more than a label. ...it's an action', with 10 practical steps allies can take to actively support inclusion. HSF also works to support the wider LGBT+ community in Hong Kong. For example, HSF has sponsored the Queer Straight Alliance recruitment event in Hong Kong and is a platinum sponsor of Hong Kong's Pink Dot event. The firm was active in establishing the Interlaw network in Hong Kong for LGBT+ employees and allies from different firms. It's also part of Community Business's Diversity and Inclusion in Asia Network (DIAN). Additionally, HSF has supported Planet Ally in hosting the inaugural 'Rainbow Families' forum in Hong Kong. Planet Ally is a local non-profit dedicated to empowering allies.





## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**May** - Community Business LGBT Inclusion Awards.  
[www.communitybusiness.org](http://www.communitybusiness.org)

**September** - Hong Kong Lesbian and Gay Film Festival.  
[www.hklgff.hk](http://www.hklgff.hk)

Check the events websites for the most up-to-date information on dates.

**October** - Pink Dot HK. [www.pinkdot.hk](http://www.pinkdot.hk)

**November** - Hong Kong Pride Parade. [www.hkpride.net](http://www.hkpride.net)

**November 2022** - Hong Kong Gay Games.  
[www.gaygameshk2022.com](http://www.gaygameshk2022.com)



### FIND LGBT GROUPS AND COMMUNITIES

**AIDS Concern** - a group providing AIDS care in Hong Kong.  
[www.aidsconcern.org.hk](http://www.aidsconcern.org.hk)

**Big Love Alliance** - an organisation creating dialogue between the LGBTQ community and the general public through creative and continuous engagement in media, publishing and cultural events. [www.biglovealliance.org](http://www.biglovealliance.org)

**Community Business** - an organisation working with companies of all sizes and from diverse industries across Asia to promote responsible and inclusive business. [www.communitybusiness.org](http://www.communitybusiness.org)

**Fruits in Suits** - a monthly informal networking event for LGBT professionals in Hong Kong. [www.facebook.com/FinS.HK/](http://www.facebook.com/FinS.HK/)

**Hong Kong LGBT+ Interbank Forum** - a network of LGBT affinity groups from banks and financial firms. [www.facebook.com/groups/206610126377044/](http://www.facebook.com/groups/206610126377044/)

**Les Love Study** - an LGBT group focused on public awareness and self-empowerment through seminars, forums, workshops and written publications.  
[www.leslovestudy.com](http://www.leslovestudy.com)

**Pink Alliance** - a group working to promote equal rights for LGBTI people through lobbying, education and campaigns. [www.pinkalliance.hk](http://www.pinkalliance.hk)

**Queer Straight Alliance** - a student organisation promoting sexual diversity and providing a safe social platform for LGBT members both on and off campus.  
[www.facebook.com/QSAHK/](http://www.facebook.com/QSAHK/)

**Rainbow of Hong Kong** - an LGBT community centre in Hong Kong running over 100 activities every year. [www.rainbowhk.org](http://www.rainbowhk.org)

**TGR - Transgender Resource Centre** - a group providing trans-specific educational resources to the transgender community and general public.  
[www.tgr.org.hk](http://www.tgr.org.hk)

**The Hong Kong Gay and Lesbian Attorneys Network (HKGALA)** - a network for LGBT members and their allies in the legal profession.  
[www.hkgala.com](http://www.hkgala.com)

**Tong Zhi Literature Group** - a group fostering the writing of sexual minorities in Hong Kong and building a reader-writer community. [www.tlghk.org](http://www.tlghk.org)



### GET LOCAL LGBT UPDATES

**DIMSUM** - an online LGBT media platform. [www.dimsum-hk.com](http://www.dimsum-hk.com)

**PLUG** - an online media platform covering art, style and LGBTQI culture in Hong Kong. [www.plug-magazine.com](http://www.plug-magazine.com)

**GdotTV** - an LGBT media platform including an online TV station.  
[www.gdottv.com](http://www.gdottv.com)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 55 ORGANISATIONS OPERATING IN HONG KONG.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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# INDIA



Population: 1.28+ billion people



Stonewall Global Diversity Champions: 68

## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

India is classified as a Zone 3 country, which means sexual acts between people of the same sex are illegal.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 2 countries sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The Constitution **protects all citizens' rights to freedom of expression, association and assembly** under Article 19, **subject to 'reasonable restrictions'**.

The **obscenity law** contained in Section 292 of the Indian Penal Code **can restrict the right to freedom of expression**, including dissemination of information that is deemed 'obscene'. While this law does not specifically restrict LGBT people's rights to freedom of expression, it **has been used against LGBT people and groups in practice**.

### FAMILY AND SAME-SEX RELATIONSHIPS

Voluntary 'carnal' intercourse 'against the order of nature' is criminalised with a penalty of up to 10 years' imprisonment and a fine under Section 377 of the Indian Penal Code. **Sexual acts between men are prohibited and criminalised** under this law.

The **constitutionality** of the section was **upheld by the Supreme Court** in 2013.

**Same-sex marriage is not legal.**

**Same-sex relationships** are **not** otherwise **recognised** by law.

**Only married couples and single individuals can legally adopt** (with certain restrictions on single men) under Adoption Rules 2017 and the Hindu Adoption and Maintenance Act 1956.

### EQUALITY AND EMPLOYMENT

Articles 14-16 of the Constitution provide for **equality before the law** and for **non-discrimination** on grounds of 'sex' **in respect to employment by the state**.

There is **no comprehensive employment anti-discrimination law** in force **that protects LGBT people**.

The caselaw on LGBT rights is evolving and **courts have taken the view** that there **should be no discrimination based on sexual orientation and gender identity**.

Notification S.O.186(E) of 19 January 2017 issued by the Ministry of Labour and Employment provides for the **same rate of wages** (for the same work or work of similar nature) **for men, women and trans people engaged in specified forms of employment**.

**No law considers hate crimes** based on sexual orientation or gender identity as an **aggravating circumstance** in sentencing.

However, on a few occasions **courts have taken into account atrocities committed against the trans community** in their rulings.

### GENDER IDENTITY

In 2014, the **Supreme Court recognised trans people as 'third gender'** and directed the Centre and State Government to grant people the right to legally identify as 'male', 'female' or 'third gender' (National Legal Services Authority v Union of India).

The **Court also ruled that the government had to give several social benefits and legal rights** to 'third gender' people.

A **relating Bill** providing for such rights, as well as legal gender recognition, is still pending and has **not yet been enacted**.

There is **currently no law addressing the right of trans people to change their legal gender**. However **legal gender change to 'third gender' on certain documents and forms** seems to be **possible in practice**.

There is **no specific law** giving trans people the **right to change their legal name**.

However, **Guidelines for Change of Name of Adults** (as available on the website of the Department of Publications, Ministry of Housing and Urban Affairs) **state that legal name change** is subject to a **notarised affidavit**, a **newspaper publication** and a **publication in the official gazette**. Additional **requirements may be added** by individual regulators.

### IMMIGRATION

There are **no laws that support immigration of same-sex spouses** or partners.



## A VIEW FROM INDIA

**Ashok Row Kavi** is founder of The Humsafar Trust. The Humsafar Trust works with over 50 LGBT community groups across India and has 300 staff in four strategic work streams: health, research, capacity-building and advocacy.



### How often is section 377 enforced in the courts?

Section 377 of the Penal Code has rarely been enforced because the police find it hard to implement. However, fear of the law and the lack of other protections make gay men particularly vulnerable to extortion and blackmail by gangs. Fear of arrest under Section 377 also makes it hard for LGBT people to access medical care.

### What is the situation for lesbians, bi women and trans people?

India is a very patriarchal society and there is limited social mobility for women in general. There is a huge degree of pressure on women to marry young and it's very unusual for women to be open about their sexual orientation. On the whole, lesbians and bi women are not understood and often face issues of domestic violence. In regard to trans people, in April 2014 a landmark judgment from the Supreme Court on the NALSA case recognised the legal rights of the trans community. This positive development ultimately opens the floor for discussion, negotiation and further dialogue to highlight the concerns of the trans community.

### How are LGBT people portrayed in the media?

Nationwide media tends to be more tolerant than local media. Smaller cities and towns often have anti-LGBT stances but in big cities such as Mumbai, where regular Pride parades take place and LGBT events and forums are more common, the media is more used to LGBT culture. However, issues of sex, gender and sexuality are still not clearly understood.

### What is the workplace like for LGBT people?

India is very diverse with a very complex class system, several religions and over 22 spoken languages. However, management of diversity is poor. If you're in a conservative Indian workplace, people who are open about being or presumed to be LGBT will often be marginalised. HR is also unlikely to be sympathetic to, or properly trained to deal with, the problems that stem from this in the workplace. Some progress is being made by international organisations through inclusive policies, codes of conduct and diversity training. However, often companies place more of a focus on discrimination based on sexual orientation and neglect gender identity and as a result do not have anti-discrimination policies that address gender identity.





### Do Indian or international organisations publicly support LGBT equality?

Some Indian organisations are more progressive than others, such as Godrej, Tata and Infosys who have awareness-raising events and LGBT-inclusive policies. International organisations such as IBM, Levi and Google have also had some public LGBT-inclusive marketing. The government has not interfered with this sort of public support. The Supreme Court judgment regarding trans rights in 2014 did open up discussions and highlight concerns of the trans community. More businesses are now hiring trans employees and supporting the LGBT movement.

## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in India:

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> </ul> |
|--|--|

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li> <b>Audit and extend partner benefits to same-sex partners</b></li> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
|--|---|

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

**Barclays** Barclays ensures that suppliers of call-centre services train their staff on Barclays' values, which include non-discrimination on the grounds of sexual orientation and gender identity. This fulfils a global commitment to working towards more inclusive practices for all stakeholders, including their customers worldwide.

**BP** BP has developed staff training sessions on unconscious bias and being 'consciously inclusive'. These include addressing bias against the LGBT community. The trainings have been actively rolled out by the HR and Leadership teams to all staff throughout BP in India. This has been done with a view to support BP's Diversity & Inclusion strategy and to promote an inclusive workplace culture. Participation in the trainings has prompted staff to engage in discussions about barriers to inclusion, forms of biases and how their own experiences shape decisions and impact those around them. The Leadership team continues to engage and is committed to creating an inclusive workplace environment.

**IBM** As part of a global assessment of the extension of benefits across their operations, IBM have made sure that all their staff in India have access to adoption benefits and paternity extends to include same-gender domestic partners. IBM was the co-organiser and presenting sponsor at the Corporate Social Responsibility Forum, held in Mumbai in 2014 and attended by international and national businesses. The three-day event included one full day dedicated to developing an understanding of diversity and inclusion practices, including on sexual orientation and gender identity.

**RBS** To back up global inclusion and human rights policies, RBS ensure that their national policies explicitly prohibit discrimination and harassment based on sexual orientation and gender identity. These policies apply to over 15,000 employees in India. They provide the basis for an inclusive environment, including growth of the LGBT employee network group, Rainbow, which has 10% of its total global membership in India. In 2017, RBS consulted with the local legal team to include questions on sexual orientation and gender identity within its annual employee survey. 2017 also was the first year that a group of RBS colleagues collectively attended Prides across the country.

**AIG** AIG's unconscious bias training for managers and inclusion learning for employees are integral parts of the organisation's efforts to ensure that values of equality and non-discrimination are realised on a day-to-day basis. The training modules, which cover a number of different protected characteristics including sexual orientation and gender identity, have been rolled out virtually in Asia-Pacific and also in person, throughout AIG's offices in India. In addition, AIG encourages open dialogue among its employees through workshops, including a theatre-based workshop on unconscious bias, visualising various scenarios of discrimination in the workplace.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**February** - Mumbai Pride. [www.mumbaipride.in](http://www.mumbaipride.in)

**November** - Delhi Queer Pride Parade.  
[www.facebook.com/delhiqueerpride/](http://www.facebook.com/delhiqueerpride/)

Check the events websites for the most up-to-date information on dates.

**November** - Community Business India Conference.  
[www.indiaconference.communitybusiness.org](http://www.indiaconference.communitybusiness.org)

**December** - The Indian LGBT Youth Leadership Summit.  
[www.mingle.org.in](http://www.mingle.org.in)



### FIND LGBT GROUPS AND COMMUNITIES

**Alternative Law Forum** - a group providing legal services to marginalised groups and delivering research, education and training services inclusive of LGBT themes. [www.altlawforum.org](http://www.altlawforum.org)

**DIAN India** - a network of corporate organisations committed to progressing diversity and inclusion in India.  
[www.communitybusiness.org/india/DIANIndia.htm](http://www.communitybusiness.org/india/DIANIndia.htm)

**Humsafar Trust** - an organisation of 300 staff working with over 50 LGBT community groups across India on four strategic work streams: health, research, capacity-building and advocacy. [www.humsafar.org](http://www.humsafar.org)

**Integrated Network of Sexual Minorities (INFOSEM)** - an alliance of community organisations concerned with sexual orientation and gender identity issues. [www.infosem.org](http://www.infosem.org)

**Lawyers Collective** - an organisation that provides services with a focus on human rights advocacy, legal aid and litigation, including LGBT-related issues and cases. [www.lawyerscollective.org](http://www.lawyerscollective.org)

**MINGLE** - a group focusing on LGBT workplace equality through research, training, events and more. The group partners with companies, community organisations and universities across India. [www.mingle.org.in](http://www.mingle.org.in)

**Snehalaya** - a group offering support for and focusing on women, children and LGBT communities affected by HIV and AIDS, trafficking, sexual violence and poverty. [www.snehalaya.org](http://www.snehalaya.org)

**Solidarity Foundation** - a foundation partnering with donors to provide support to sex workers and sexual minorities by offering fellowships and grants. [www.solidarityfoundation.in](http://www.solidarityfoundation.in)



### GET LOCAL LGBT UPDATES

**Gaylaxy Magazine** - an online news publication and discussion platform for LGBT people. [www.gaylaxymag.com](http://www.gaylaxymag.com)

**Pink Pages** - a national online LGBT magazine. [www.pink-pages.co.in](http://www.pink-pages.co.in)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 63 ORGANISATIONS OPERATING IN INDIA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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# INDONESIA



Population: 262.7 million



Stonewall Global Diversity Champions: 54



## THE LEGAL LANDSCAPE

Stonewall uses broad legal zoning to group the differing challenges faced by employers across their global operations.

Indonesia is classified as a Zone 3 country, which means sexual acts between people of the same sex are illegal.

To help put this into context, it is important to note that two further zones exist:

In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 2 countries sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation.

FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY	FAMILY AND RELATIONSHIPS	EQUALITY AND EMPLOYMENT	GENDER IDENTITY	IMMIGRATION
<p>Article 28 of the Constitution protects the <b>rights to freedom of expression, association and assembly</b>.</p> <p>There are <b>no LGBT-specific restrictions or additions</b> to these rights.</p> <p>Law enforcement has used the Law No. 44 of 2008 on Pornography to <b>restrict the rights to freedom of expression, association and assembly regarding LGBT people and LGBT topics</b>. This is done by broadly interpreting “indecent acts” in society and “deviant sexual acts” as pornography.</p> <p>As of 2018, there were 22 local regulations that <b>criminalised LGBT people</b> either at the provincial, regency or city level.</p>	<p><b>Sexual acts</b> between people of the same sex are <b>not expressly criminalised on a national level</b>.</p> <p><b>However</b>, Law No. 44 of 2008 on Pornography has been used to <b>criminalise same-sex relationships</b> on the grounds of ‘indecent acts’ and ‘deviant sexual acts’. This is punishable with up to six years <b>imprisonment and a fine</b> of up to Rp 6’000’000’000.</p> <p>Article 281 of the Penal Code (Offences Against Dignity) has also been used to <b>criminalise same-sex relationships</b>.</p> <p>In addition, there are 22 local regulations that <b>criminalise sexual acts between people of the same sex</b>. Areas with these regulations include South Sumatra, West Sumatra, Aceh, Gorontalo, West Java, Banjar and Tasikmalaya.</p> <p>In <b>Aceh</b>, same-sex sexual acts have been punished with <b>lashings</b>.</p> <p><b>Same-sex marriage is not legal</b> because Article 1 of Law No. 1 of 1974 on Marriage defines marriage as a union between a man and a woman.</p> <p>There are <b>no marriage restrictions specific to trans people</b>. Trans people who have had their gender legally recognised can enter a different-sex marriage.</p> <p>Same-sex couples have <b>no legal right to adopt children</b>. Only married couples can adopt under Article 13(f) Government Regulation No. 54 of 2007 on Child Adoption.</p>	<p><b>General discrimination in employment is prohibited</b> under Articles 5 and 6 of Law No. 13 of 2003 on Manpower and Article 28D of the Constitution. Discrimination on the <b>grounds of sexual orientation and gender identity</b> are <b>not explicitly included but may in theory be considered a violation</b> of this law.</p> <p>Article 28D of the Constitution provides for <b>equality before the law</b> for every person. There is no explicit reference to sexual orientation and gender identity.</p> <p>As <b>aggravating circumstances</b> are <b>not clearly regulated</b> in Indonesia, <b>hate crimes</b> based on sexual orientation and gender identity <b>may be considered an aggravating circumstance</b> in sentencing at the <b>discretion of the judge</b>.</p>	<p>Trans people <b>can legally change their gender</b> by obtaining a court decree under Article 56 of Law No. 24 of 2013, amending Law No. 23 of 2006 on Population Administration and Article 97 paragraph (2) Presidential Regulation No. 25 of 2008 on Requirements and Procedures for Population Registration and Civil Registration.</p> <p>Legal gender can only be changed to male or female. There is <b>no option to change legal gender to a third gender</b>.</p> <p>The requirements for legal gender change are not regulated by a specific law and are <b>dependent on the court</b>. In practice, <b>legal gender change</b> can be <b>subject to medical opinion</b>, proof of <b>gender reassignment surgery and family testimony</b>.</p> <p>Trans people <b>can change</b> their <b>legal name</b> under Article 93 Presidential Regulation No. 25 of 2008 on Requirements and Procedures for Population Registration and Civil Registration.</p> <p>The <b>requirements for a legal name change</b> include a <b>court decree</b>, a <b>civil registration deed</b>, a <b>marriage certificate</b> (if married), a <b>family registration card</b> and a copy of an <b>identity card</b>.</p>	<p>There are <b>no legal provisions</b> that specifically support <b>immigration of same-sex partners</b>.</p>



## CONTEXT

Given the restrictive legislative framework in Indonesia in relation to sexual orientation and gender identity, any LGBT workplace-related activities in the country should be approached with caution. The safety and security of LGBT staff should be paramount at all times.

The [Global Workplace Briefing](#) series seeks to give employers the tools they need to create more equal and inclusive workplaces for their LGBT employees. To inform the content of the briefings and to understand the situation for LGBT people in different countries, Stonewall always consults with local LGBT groups.

In these briefings we usually provide an overview of the context based on the views of a local LGBT civil society organisation willing to be quoted publicly. Unfortunately, due to the restrictive context in Indonesia, Stonewall was unable to effectively consult with local LGBT groups for this briefing.

In the absence of a locally informed perspective, the guidance in this briefing is limited. Nonetheless, this briefing provides employers with tools to support international LGBT staff working in Indonesia.

## INTERNATIONAL INSIGHT INTO HUMAN RIGHTS IN INDONESIA

**Amnesty International, in its 2017/18 report on the state of the world's human rights, summarised the general human rights situation in Indonesia:**

"Indonesia failed to address past human rights violations. The rights to freedom of expression, of peaceful assembly and of association continued to be arbitrarily restricted. Blasphemy provisions were used to imprison those who peacefully exercised their rights to freedom of religion and belief. At least 30 prisoners of conscience remained in detention for peacefully exercising their rights to freedom of expression or of religion and belief. The security forces carried out unlawful killings and used excessive force during protests and security operations. Two men were caned in public in Aceh after being convicted by a local Shari'a court of same-sex consensual sexual relations." *Amnesty International, Amnesty International Report 2017/18: The State of the World's Human Rights*

**ILGA World, in its 2019 State-Sponsored Homophobia Report, also addressed the situation for LGBT people in Indonesia:**

"The Indonesian Province of Aceh has begun enforcing the Aceh Islamic Criminal Code (Qanun Jinayat), which punishes same-sex sexual acts with 100 lashes. In May 2017, two men were publicly inflicted with 83 lashes each for allegedly engaging in gay sex. In July 2018, another two men were publicly lashed. Separately in January 2018, police officers in North Aceh arrested 12 transgender people, forcefully cutting their hair and shutting down the beauty salons where they worked. They were later released without being charged. Indonesia's Pornography Law, which includes "bodily movements" in its coverage and imposes heavy fines as well as long prison terms, has also been used to target LGBTQ people. In April 2017, 14 men, who were occupying two hotel rooms in Surabaya, were raided for pornographic activities. In May 2017, police raided a club in Jakarta and detained 141 men also for alleged pornographic activities. A small respite came when, in December 2017, the Indonesian Constitutional Court, voting five-to-four, rejected the petition filed by the Family Love Alliance to make gay sex and sex outside marriage illegal. The court held that it was not its role to criminalize private behaviour or to usurp parliament by imposing laws on it." *International Lesbian, Gay, Bisexual, Trans and Intersex Association: Lucas Ramon Mendos, State-Sponsored Homophobia 2019 (Geneva; ILGA, March 2019)*

**The Human Dignity Trust, in its 2019 Injustice Exposed report, examining the criminalisation of trans and gender diverse people throughout the world, evaluated the situation for trans people in Indonesia:**

"Trans people in Indonesia are also targeted on the basis of their gender expression and identity; notably under Qanun 11/2002, which is among five laws enacted between 2002 and 2004 that criminalise violations of Sharia law and contain Islamic dress requirements. Transgender women have been singled out under these provisions. In 2010, the head of the Wilayatul Hisbah (the Islamic religious police force in Aceh) broadcasted his view on transgender women stating, "we consider them men, and they should dress accordingly". The city of Pariaman passed a broadly-framed regulation in November 2018 banning 'acts that are considered LGBT'. In remarking on the new law, the head of the local legislature stated that 'same-sex LGBT and transgender people will be subject to sanctions and fines if they disturb the public order'." *The Human Dignity Trust, Injustice Exposed: The Criminalisation of Transgender People and its Impacts, 2019*



## LGBT INCLUSION IN THE WORKPLACE

Despite a challenging context for LGBT people in Indonesia, there are several steps employers can take to create a more inclusive and supportive workplace environment for their LGBT employees. However, LGBT-inclusive activity that is appropriate elsewhere may put LGBT staff in danger in Indonesia. The safety and security of LGBT staff, both from the Indonesia and elsewhere, should be paramount at all times and will require careful consideration.

### CREATING GLOBAL STRUCTURES

It is important that multinational employers work to create a strong global LGBT diversity and inclusion framework. Global policies and structures send a signal to LGBT employees that their needs are taken seriously wherever they are or travel for work. Employers should work to:

-  **Introduce global anti-discrimination and anti-bullying and harassment policies that are explicitly inclusive of sexual orientation and gender identity**
-  **Appoint a global senior champion who addresses the importance of LGBT equality globally**
-  **Build a global LGBT employee network group and a global allies programme**
-  **Have a global diversity and inclusion team or position in place whose remit covers sexual orientation and gender identity**

### SUPPORTING MOBILE STAFF

Multinational businesses may send their staff on overseas assignments to Indonesia. It is vital that employers have policies and practices in place to support LGBT people ahead of and during their work travel. Employers should take the following steps:

-  **Have relocation policies in place that address additional considerations for LGBT staff and set out how such issues are to be handled by managers**
-  **When sending employees on a posting to Indonesia, make sure to provide them with information on the legal and cultural situation for LGBT people in the country, and a realistic overview of how your organisation can support LGBT employees during the posting**
-  **Make sure LGBT employees do not suffer a career detriment if they decide not to accept the assignment due to their sexual orientation and gender identity, by providing equivalent alternatives**
-  **Take steps to avoid outing of LGBT employees in Indonesia – this may include change of email address and social media security training**
-  **Have strong security mechanisms in place, digital and otherwise, to ensure confidential access to global employee support mechanisms for mobile and domestic staff. For example, this may include confidential membership lists and privately marked calendar invitations**
-  **Have an emergency evacuation procedure in place that explicitly takes into consideration emergency situations specific to LGBT people**

Stonewall's [Global Workplace Equality Index](#) is the definitive benchmarking tool for global LGBT workplace equality. It's a great way to assess your organisation's progress and navigate the challenges of upholding inclusive values locally. The Global Index provides your organisation with a clear and rigorous action plan for your LGBT inclusion work across the globe.



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

In our experience, sharing case studies from employers operating in-country can be highly informative. However, we were unable to secure a case study that an employer could share publicly. Bearing this in mind, we are keen to work with employers and discuss individually any challenges they face because of the restrictive context in Indonesia. To learn about the steps employers are taking to support their LGBT staff in other zone three countries, please refer to Stonewall's [Global Workplace Briefings](#) on Malaysia and the UAE.

If you operate in Indonesia and are taking steps, big or small, to advance LGBT inclusion and would like to be profiled as a best practice case study, please contact [global.programmes@stonewall.org.uk](mailto:global.programmes@stonewall.org.uk)



## GET INVOLVED



## FIND LGBT GROUPS AND COMMUNITIES

While publicly available information from civil society about the situation is for LGBT people in Indonesia is difficult to secure for a host of reasons, there are a number of NGOs connected to LGBT communities. It is very important to consider the methods used to approach them with a focus on their security. The below list of organisations was collated from online sources:

**Bali Rainbow Community** – a group in Bali providing support in education, outreach and financial assistance to people living with HIV.  
[www.facebook.com/balirainbow](http://www.facebook.com/balirainbow)

**Yayasan Srikandi Sejati (True Srikandi Foundation)** – a local organisation working to empower trans people in Indonesia.  
[www.srikandisejati.wordpress.com](http://www.srikandisejati.wordpress.com)

**GAYa Nusantara** – a non-governmental organisation conducting research, advocacy and providing services to support the LGBT community.  
[www.gayanusantara.or.id](http://www.gayanusantara.or.id)

**GWL-INA** – a national centre coordinating HIV control programmes and advocacy relating to the sexual and reproductive health rights of men who have sex with men and Waria (a local trans identity). [www.gwl-ina.or.id](http://www.gwl-ina.or.id)

**Arus Pelangi** – a membership association working to promote LGBTI rights in Indonesia. [www.aruspelangi.org](http://www.aruspelangi.org)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 54 ORGANISATIONS OPERATING IN INDONESIA.

The [Global Diversity Champions](#) programme gives employers the tools they need to take a strategic and structured approach to LGBT equality initiatives globally and provides a network to keep them informed of legal changes and implications for their staff wherever they are in the world. Our team of workplace advisors offer tailored one-to-one advice on how to create LGBT-inclusive workplaces globally and members gain exclusive access to our full library of resources offering step-by-step guidance on different areas of LGBT inclusion. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact [memberships@stonewall.org.uk](mailto:memberships@stonewall.org.uk)

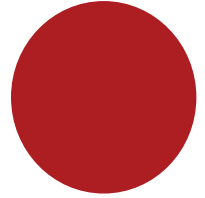
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Legal Partner



Freshfields Bruckhaus Deringer



# JAPAN



Population: 126+ million



Stonewall Global Diversity Champions: 59

## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Japan is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Article 21(1) of the Constitution of Japan (1946) protects the **rights to freedom of expression, association and assembly** of all citizens.

These rights are **not specifically reaffirmed or restricted for LGBT** people or issues.

### FAMILY AND RELATIONSHIPS

**Sexual acts** between people of the same sex are not criminalised and are thus **legal**.

There is an **equal age of consent** for sexual acts regardless of gender.

Article 24(1) of the Constitution defines **marriage** as between "both sexes", which has consistently been interpreted to **exclude same-sex couples**.

**Trans people can legally marry a person of the opposite sex after their gender is legally changed.**

**In six municipalities, same-sex couples can apply for a certificate to recognise their partnership. The certificates are mostly symbolic without triggering any major legal consequences.**

**Same-sex couples have no legal rights to jointly adopt children.**

### EQUALITY AND EMPLOYMENT

**Employment discrimination** against LGBT people is **not legally prohibited**.

**Article 5 of the Act on Securing of Equal Opportunity and Treatment between Men and Women in Employment (enacted in 1972, amended in 2006) requires employers to provide equal opportunities for all persons regardless of sex, but there is no reference to sexual orientation or gender identity.**

In 2017, the Ministry of Health, Labour and Welfare amended the Sexual Harassment Guidelines. They now state that **sexual harassment** can occur **irrespective of sexual orientation or gender identity** and that sexual harassment **can occur between people of the same sex**. These guidelines legally bind employers.

Article 14 of the Constitution states that 'all of the **people** are **equal under the law**'.

### GENDER IDENTITY

The Act on Special Cases in Handling Gender for People with Gender Identity Disorder (enacted in 2003, amended in 2011) allows for **legal gender change** to 'female' or 'male' **subject to certain requirements**. These **include sex-reassignment surgery and sterilisation**. The person must also be not less than 20 years of age and cannot be married or have a minor child.

If a person obtains a "**gender reassignment**" **ruling** from the Family Court, it **allows for** a subsequent **change of** the person's **identification documents**. However, a **birth certificate cannot be amended**.

**To change** a person's **name, 'justifiable grounds'** and the **permission of the Family Court** are **required** under Article 107-2 of the Family Register Act (enacted in 1947, amended in 2007).

### IMMIGRATION

There are **no provisions** in the Immigration Control and Refugee Recognition Act (enacted in 1951, amended in 2014) that **support immigration of same-sex spouses** or partners.

**Foreign same-sex marriages** are **not recognized** in Japan.

Japanese citizens **cannot sponsor** their **non-Japanese same-sex spouse** for visa or immigration purposes.

In 2013, the Ministry of Justice issued a notice to immigration officers to **take into consideration if couples** are legally **married in a foreign jurisdiction**.

It is **unclear if** such notice **applies only to non-Japanese** same-sex couples.

It is **uncertain that a visa will be issued** to a same-sex spouse upon issuing a work visa to a spouse.



## A VIEW FROM JAPAN

**Soshi Matsuoka** is a commentator, lobbyist and writer on LGBT topics. He appears regularly on TV and in print and maintains his own blog. Soshi also works with schools and companies to raise awareness of LGBT issues and carries out training and education activities.

### What are the biggest barriers to LGBT equality in Japanese society?

LGBT topics are not often talked about, and many people in Japan lack an understanding of what the terms lesbian, gay, bi and trans mean. LGBT people also get little or inaccurate representation in the media. The lack of understanding is one of the reasons why few Japanese LGBT people feel able to be open about their sexual orientation and gender identity, especially to their families. Other barriers include a strong emphasis on traditional Japanese family values, and the fear of not being accepted and becoming the topic of unwanted conversation.

But we have also seen positive developments. Recently, there has been a slight increase in LGBT representation in the media. Also, while there has been little concrete progress or political discussion on the introduction of a national LGBT anti-discrimination law, there has been progress on a more local level. In the run up to the 2020 Olympics, the Mayor of Tokyo has indicated a willingness to introduce a local law. Five administrative areas, covering approximately two per cent of the Japanese population, have joined Tokyo's Shibuya district in introducing same-sex partnership recognition in the absence of progress towards national legislation.

### What are some specific problems that affect trans people?

Being trans is legally regarded as a 'disorder' in Japan. Consequently, trans people are generally tolerated by society at large, as having a 'disorder' is seen as something which cannot be helped. However, this does not mean that they are accepted or that being trans is celebrated as an aspect of diversity. Also, trans women are often misrepresented as drag queens by the media and are therefore less tolerated than trans men.

Trans people in general face discrimination in education and employment. This is especially the case where trans people do not fulfil the many strict requirements for a legal gender change and cannot have their name and gender changed on identification documents. In 2017, it was decided that sexual reassignment surgery would become available through Japan's national medical insurance. However, the fact that this is a requirement for changing one's legal gender in Japan remains a concern.

### What is the workplace like for LGBT people?

There is a significant difference between the workplace experiences of LGBT staff in international corporations and those in Japanese organisations. Many Japanese companies have only just started engaging with diversity and inclusion topics and are mostly looking at gender issues.

Not many LGBT employees are open about their sexual orientation and gender identity in such companies. The working environment is sometimes different in global corporations that put an emphasis on diversity and inclusion, including sexual orientation and gender identity. Having LGBT-inclusive policies and diversity training in place more universally would help LGBT employees be accepted in the workplace. In fact, a few companies have begun to recognise the same-sex partners of their employees, and others have begun to offer services and products tailored to same-sex couples.

Recently, both the Japanese Trade Union Confederation and the Japan Business Federation (Keidanren) have undertaken independent surveys on LGBT awareness in Japanese companies and developed models for inclusion that companies can follow.

### What can employers do to support their LGBT employees and the LGBT movement in Japan?

Corporations at the start of their journey should actively learn what LGBT means in the first place and which issues affect LGBT employees in Japan. They can then start putting in place systems that enhance workplace equality. Again, education of the workforce is crucial, and can be achieved most effectively by employers working with NGOs to deliver this training. Foreign corporations should continue to develop sophisticated LGBT equality systems that Japanese corporations have to compete with.

Having recognised the role corporations can play, some also sponsor and participate in Pride parades. Since 2016, the annual Work with Pride Index has been created to award recognition to companies which have made positive steps towards inclusion – an increasing number of companies are being recognised. Nonetheless, there is currently a lack of openly LGBT business leaders and corporate role models.

## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Japan:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
|--|---|

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li> <b>Audit and extend equal benefits to LGBT partners</b></li> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
|--|---|

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### Freshfields Bruckhaus Deringer

In April 2016, Freshfields Bruckhaus Deringer's (Freshfields) Tokyo office co-founded an LGBT Lawyers and Allies Network (LLAN). The main focus of the group is to promote LGBT equality in Japan, specifically with regard to same-sex marriage. As such, LLAN has been working closely with a group of Japanese lawyers who filed a petition to the Committee for Fundamental Human Rights of the Japan Federation of Bar Associations, arguing in favour of equal marriage. LLAN has conducted research into 10 jurisdictions that have adopted or are considering equal marriage. The results of the research are summarised in a report supporting the equal marriage petition before the Japanese Federation of Bar Associations. As a core member of LLAN, Freshfields has also been actively involved in various events aimed at enhancing the common understanding of LGBT issues and the importance of equal marriage. For example, Freshfields co-organised the Asian premiere of Freedom to Marry, a documentary about the decades-long path to equal marriage in the USA. In addition, members of Freshfields' Tokyo office give presentations to major Japanese and multinational companies, and educational institutions, on basic knowledge and legal arguments surrounding LGBT rights. In recognition of Freshfields Tokyo office's efforts, Freshfields received a Work with Pride Gold award in 2017, as part of an index to evaluate Japan's business community on their efforts to support inclusiveness for LGBT employees.

### Goldman Sachs

In 2005, Goldman Sachs Japan established its LGBT network to promote an inclusive work environment for LGBT employees. With over 180 members, the network organises awareness-raising events and networking opportunities to drive change both internally and externally. A Managing Director (MD) allies strategy was also launched, motivating senior leaders to play influential and active roles in promoting LGBT-inclusive messaging. MD allies create a support network for LGBT employees at all levels of the firm and can further participate in a reverse-mentoring programme. In the programme, LGBT employees act as mentors to help MD allies better understand the nuances of the LGBT community in Japan. Goldman Sachs' training 'Out in the Open' is offered to all employees and is mandatory for senior staff. It covers a variety of topics including sexual orientation terminology and best practice to promote an inclusive environment for LGBT professionals. The firm also plays an active role engaging the Japanese community in LGBT equality. For example, in collaboration with the group Good Aging Yells, Goldman Sachs has arranged annual career mentoring and networking programmes for LGBT students. In addition, the firm regularly sponsors and participates in the Tokyo Rainbow Pride parade, with 2016 marking the 10th year of participation. Goldman Sachs is also an active member of the LGBT Finance Forum.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**April / May** – Tokyo Rainbow Pride. [www.tokyorainbowpride.com](http://www.tokyorainbowpride.com)

**June** – Rainbow Reel Tokyo (film festival). [www.rainbowreeltokyo.com](http://www.rainbowreeltokyo.com)

Check the events websites for the most up-to-date information on dates.

**September** – Mie Rainbow Festa. [www.mierainbowfesta.wixsite.com/elly](http://www.mierainbowfesta.wixsite.com/elly)



### FIND LGBT GROUPS AND COMMUNITIES

**Fruits in Suits Japan** – a network for LGBTQ+ professionals with over 1500 members. [www.fruitsinsuitsjapan.org](http://www.fruitsinsuitsjapan.org)

**Good Aging Yells** – a group working for a society within which LGBT people of all ages live free from discrimination. They organise community events and LGBT-friendly house sharing. [www.goodagingyells.net](http://www.goodagingyells.net)

**Japan Alliance for LGBT Legislation** – a group lobbying for the advancement of LGBT equality through legislation. [www.lgbtetc.jp](http://www.lgbtetc.jp)

**Lawyers for LGBT & Allies Network** – a network for LGBT professionals and their allies in the legal sector, providing legal assistance to promote the understanding of LGBT people and issues. [www.llanjapan.org](http://www.llanjapan.org)

**LGBT Youth JPN** – a Tokyo-based student organisation exploring LGBT support systems employed in foreign countries through study trips. [www.lgbtyouthjapan.jimdo.com](http://www.lgbtyouthjapan.jimdo.com)

**NIJIRO DIVERSITY** – an organisation working with corporations and offering seminars to promote LGBT acceptance in Japan's workplaces. [www.nijiroidiversity.jp](http://www.nijiroidiversity.jp)

**OCCUR** – an LGBT group focusing on legal activism, HIV-related health provision and community engagement, as well as serving as a group for LGBT youth. [www.occure.or.jp](http://www.occure.or.jp)

**ReBit** – a group for LGBT people in their teens and twenties focusing on education, LGBT celebrations and job hunting support. [www.rebitlgbt.org](http://www.rebitlgbt.org)

**Stonewall Japan** – an English-speaking community group for LGBTQIA+ people, providing information and resources as well as a safe space for networking. [www.stonewalljapan.org](http://www.stonewalljapan.org)



### GET LOCAL LGBT NEWS

**NIJIRO NEWS** – online LGBT news and resources. [www.nijiironews.com](http://www.nijiironews.com)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 59 ORGANISATIONS OPERATING IN JAPAN.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Legal Partner

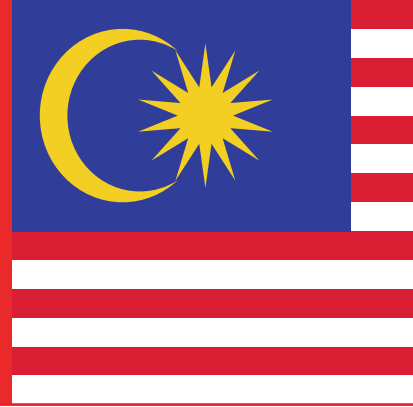


Freshfields Bruckhaus Deringer

Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of July 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)



# MALAYSIA



Population: 31+ million



Stonewall Global Diversity Champions: 44



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Malaysia is classified as a Zone 3 country, which means sexual acts between people of the same sex are illegal.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Article 10 of the Federal Constitution **protects the rights to freedom of speech, expression and peaceful assembly** of citizens.

These rights **can be restricted** but there are **no LGBT-specific restrictions**.

Section 37(e) of the Communications and Multimedia Act (1998) **prohibits publishing content** that is **not deemed to be in-line with public policy**. This has **included** depictions of **LGBT** people and issues.

### FAMILY AND RELATIONSHIPS

Section 377A of the Malaysian Penal Code **criminalises 'carnal intercourse'**, with a penalty of **up to 20 years of imprisonment** and possible **whipping**.

**State Sharia laws criminalise same-sex sexual acts** with a penalty of fine, imprisonment and whipping.

A **marriage is void** if the parties are **not** respectively **male and female**, as provided by Section 69(d) of the Law Reform (Marriage and Divorce) Act (1976).

There is **no legal recognition of same-sex relationships**.

**Laws do not** currently **exist for same-sex couples to adopt children**.

### EQUALITY AND EMPLOYMENT

There are **no laws prohibiting discrimination based on sexual orientation and/or gender identity**.

Article 8 of the Constitution protects the **right to equality before the law** for all citizens regardless of religion, race, descent, place of birth, or gender. **Sexual orientation and gender identity are not included in this list**.

### GENDER IDENTITY

The **legal gender and name** of a person **cannot be changed** unless errors were made under Section 27 of the Births and Deaths Registration Act (1957) or Section 6(2)(o) of the National Registration Act (1959).

However, it was **decided in a recent High Court case** that a **person** who had **undergone gender reassignment surgery** be **declared a man** and that the National Registration Department amend the person's **identity card to reflect this change**.

### IMMIGRATION

There is **no mention of same-sex partners in immigration laws**.

## A VIEW FROM MALAYSIA

**Pang Khee Taik** is co-founder of Seksualiti Merdeka, a coalition of Malaysian non-governmental organisations and individuals, which ran an annual sexuality rights festival from 2008 until it was banned in 2011. The group now organises workshops, talks, retreats and a website called QUEER LAPIS. Seksualiti Merdeka aims to build capacity for LGBT activists while empowering LGBT people and allies to speak up for LGBT rights and participate in civil society.



### How do Malaysian laws influence the everyday lives of LGBT people?

There are Malaysian laws governing the consensual sexual acts and behaviour and LGBT people. Islamic laws banning cross-dressing are used against Muslim trans people. Under these laws, trans people are often arrested and trans women have their hair shaved off, which can be very traumatic. There has also been an unprecedented number of raids conducted by the religious authorities at trans events since some groups challenged the cross-dressing laws in court.

Non-Muslim trans people are targeted under public decency acts, often for attending group events. A remaining British colonial law prohibits same-sex sexual activity, with a penalty of up to 20 years imprisonment and whipping. This has been used against the former deputy prime minister, who was accused of engaging in same-sex sexual activity. He served six years in prison before the conviction was overturned but is serving a second prison term under different sodomy charges, supposedly until June 2018. All of these laws make LGBT people vulnerable to blackmail and to physical and verbal abuse from family, strangers and authorities. They also make LGBT people vulnerable to losing their jobs and security and prevent them from being able to be themselves.

### Are there groups within the LGBT community that are specifically vulnerable?

The trans community is targeted heavily. As the state continues to appeal to Islamic populist sentiments, there is an increased targeting of Muslim LGBT people, with media linked to the government outing LGBT activists and revealing events. Young LGBT people are also particularly vulnerable, especially if they live in smaller towns. They are often rejected by their families and are on their own.

A few new LGBT groups have emerged in the past two years, but there are still too few places that young LGBT people can claim for themselves. However, some private universities are supportive of LGBT students and encourage discussion on related topics. Other extremely marginalised groups are poor LGBT people as well as asylum seekers and undocumented migrants.

### How do LGBT organisations work towards change in Malaysia?

It's difficult for organisations and individuals to work towards positive change. The concern is mostly one of security. People fear they will be arrested or fired from their jobs and often have to cancel awareness-raising events. However, the different parts of the social movement in Malaysia are very collaborative.

Often LGBT rights advocates are able to exercise influence through other human rights groups focusing on multi-layered issues, such as health and education. LGBT artists have also used art as a tool of expression to work towards change for LGBT people.

### What can employers do to support their LGBT employees and help affect positive change?

Inside the workplace, organisations need to make sure that anti-discrimination policies don't only exist on paper but are also applied and followed through. Organisations should also make clear that employees' involvement in LGBT rights activism outside the workplace won't negatively affect them at work. Collaborating with LGBT and human rights groups can help organisations understand the local context and inform initiatives. However, these initiatives must go beyond the workplace.

Organisations should support LGBT people through working on multi-layered corporate social responsibility actions. They can collaborate with LGBT people and civil society at large and support them with events, arts or other activities. Encouraging unions to come in can also help to advance workplace equality for LGBT people in the entire country.

## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in Malaysia:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
|--|---|

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
|--|---|

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### BP

Aligned with the Group's Diversity & Inclusion goals, BP in Malaysia developed and implemented a series of initiatives focused on challenging unconscious biases and being inclusive of all diversity strands, including sexual orientation and gender identity. The sessions educated employees on the value of inclusion and the importance of having conversations rather than making assumptions. The content of these initiatives matches BP's values and behaviours, and demonstrates BP's commitment towards diversity and inclusion in the workplace. The ask of employees is simple – 'It starts with you – and you can make a difference'.

## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

In 2017, a Pride event that was to take place in Kuala Lumpur was cancelled.



### FIND LGBT GROUPS AND COMMUNITIES

**Justice for Sisters** – an organisation aiming to end violence and discrimination against trans women through providing resources, legal advice and raising funds to support trans women who face prosecution in Islamic law courts. [www.justiceforsisters.wordpress.com](http://www.justiceforsisters.wordpress.com)

**Leadership Program for Gays** – a Kuala Lumpur-based network group for LGBT business people. [www.groups.yahoo.com/neo/groups/LPG-community/info](http://www.groups.yahoo.com/neo/groups/LPG-community/info)

**Pink Triangle Foundation Malaysia** – an organisation working on HIV/AIDS and sexuality issues by offering support, group seminars, care services related to HIV and sexuality, as well as operating a telephone counselling line. [www.ptfmalaysia.org](http://www.ptfmalaysia.org)

**PLUPenang** – a support and community group for LGBT people in Penang State, providing a safe space and organising recreational events. [www.plupenang.crystaldzi.com](http://www.plupenang.crystaldzi.com)

**Seksualiti Merdeka** – a group providing a platform for LGBT human rights issues, working to empower Malaysians who have been marginalised for their sexual orientation and gender identity. [www.facebook.com/Seksualiti-Merdeka-229317507083197/](http://www.facebook.com/Seksualiti-Merdeka-229317507083197/)

**Queer Lapis** – an online community group for queer people and their allies. [www.queerlapis.com](http://www.queerlapis.com)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 44 ORGANISATIONS OPERATING IN MALAYSIA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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Legal Partner



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# SINGAPORE



**Population:** 5+ million people



**Stonewall Global Diversity Champions:** 67



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

Singapore is classified as a Zone 3 country, which means sexual acts between people of the same sex are illegal.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 2 countries sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The Constitution **protects rights to freedom of expression, association and peaceful assembly** in relation to **all citizens** under Article 14, subject to other Acts of Parliament.

**Sexual orientation and gender identity** are **not** expressly **mentioned**.

**Public assemblies and public processions** are **regulated by the Public Order Act**. The Act does not expressly restrict the right of LGBT persons.

Different **government agencies** are authorised to **enforce restrictions and regulations on** the rights to **freedom of expression, association and assembly**.

The Info-communications and Media Development **Authority regulates the media** and has published codes of practice that regulate, among others, films, television programmes and advertisements. These codes contain certain **restrictions on the portrayal of LGBT themes**.

The Ministry of Home Affairs stated in a 2016 press release that **foreigners are not allowed to organise, speak at or participate in LGBT-themed events** and that **foreign entities should not fund, support or influence such events**.

### FAMILY AND SAME-SEX RELATIONSHIPS

"Acts of gross indecency" between men are prohibited, **criminalising sexual activity between men** with a penalty of up to two years imprisonment under Section 377 A of the Penal Code. The section was upheld by the Supreme Court in 2014.

The **legal age** of consent is 16 years under S376A of the Penal Code. The law is **silent on female same-sex sexual activity**.

**Same-sex marriages** solemnised in Singapore or elsewhere are **void** under Section 12 of the Women's Charter.

**Trans people** who have **undergone sex-reassignment surgery may legally marry** a person of the **opposite gender** under Section 12(2) of the Women's Charter.

Same-sex couples have **no legal right to adopt children** under the Adoption of Children Act.

### EQUALITY AND EMPLOYMENT

Article 12(1) of the Constitution states that **everyone is equal before the law**, but it does not explicitly refer to sexual orientation and gender identity.

**Discrimination** against citizens **in regard to a specified list of characteristics** is **prohibited** under Article 12(2) of the Constitution. This list does not include **sexual orientation and gender identity**.

There is **no law** that expressly **prohibits employment discrimination against LGBT people**.

Legislation governing professional behaviour of certain professions, such as the Legal Profession Act, **may prevent individuals from practicing their profession if convicted of a criminal offence**.

### GENDER IDENTITY

Trans people can **change** their **legal gender to female or male** under Section 12 of the Women's Charter. The legal gender can be changed **on identity cards and passports** but **not birth certificates**.

This is subject to the **requirement of a "sex re-assignment procedure"**. The scope of this procedure is not defined under the Act.

**All persons can change** their **legal name** under Section 10 of the National Registration Regulations. This requires the submission of a deed poll, reflecting the intended name change.

### IMMIGRATION

**No laws** or case law exist that **allow for dependant visas** for same-sex couples.



## A VIEW FROM SINGAPORE

**Paerin Choa** is a Singaporean lawyer and the spokesperson of Pink Dot Sg, a non-profit movement working for a Singapore in which all Singaporeans, regardless of their sexual orientation, are free to love and be loved. Pink Dot Sg has a growing list of international corporate sponsors and focuses on an annual event where people come together to celebrate the freedom to love.



### What are the biggest challenges facing LGBT people in Singapore?

Section 377 A of the Criminal Code directly targets gay and bi men by criminalising sexual acts between men. This law is rarely enforced in practice, but it acts as a serious barrier to progression. As such it doesn't only affect gay and bi men, but also the LGBT community as a whole. For instance, health services and campaigns tailored to the needs of LGB people are not allowed, as they would 'promote' sex between men. In education, teachers are not trained how to counsel and support LGBT students. LGBT organisations that have applied to be registered as societies have had their applications rejected, denying them the status of a legal entity and thus making it harder for them to operate and receive donations. Until section 377 A is abolished, many of these issues will remain.

### Which specific issues affect lesbians, bi women and trans people?

Lesbians and bi women face discrimination based on their sexual orientation just like gay and bi men, in addition to discrimination based on their gender. As for trans people, depending on the age in which they start to transition, they may already face discrimination and stigmatisation in schools. This often affects their education. With lower qualifications, their employment opportunities will be limited and some may have to resort to sex work to make a living. Even with proper qualifications, some employers are not open-minded enough to hire trans employees.

### Are LGBT issues discussed in the media?

Regulations by the Media Development Authority ban content that justifies or 'normalises' being LGBT on mainstream media. Consequently, LGBT people leading normal, purposeful lives are erased on mainstream media. However, the younger generation in particular are increasingly informed about LGBT issues through the internet and social media. But while people are progressing and attitudes are changing, laws remain a barrier.

### Can you describe the recent challenges and restrictions Pink Dot has faced?

Pink Dot Festival is an annual gathering where people come together and celebrate the freedom to love. The event has been taking place at Singapore's Speakers' Corner since 2009 and has received global corporate sponsorship for many years. However, in November 2016, the government made changes to the Public Order Act, which governs assemblies in public places in Singapore. Because of these amendments, only Singaporean citizens and permanent residents can now attend the event. Furthermore, only Singaporean citizens and Singapore-controlled companies can sponsor any public assemblies in Singapore, including Pink Dot. That meant we suddenly lost all international sponsors overnight. As a reaction to this, a few local entrepreneurs came together and spearheaded a campaign to rally local businesses to support Pink Dot. The campaign is called 'Red Dot for Pink Dot' and was a huge success. 120 local businesses stepped up and became sponsors of Pink Dot 2017. However, the event had to take place under very restrictive conditions. The police required the park to be barricaded and they conducted checks of identity cards to ensure that only Singaporeans and permanent residents entered.

### What is the workplace like for LGBT people and what can organisations do to promote equality?






The workplace environment for LGBT people can differ significantly depending on the industry and the individual business. Big global businesses have started to champion LGBT equality in Singapore, and many have recently launched local LGBT network chapters. To make employees comfortable with joining, businesses should address worries LGBT employees may have and ensure senior managers are supporting the network. Successful LGBT managers in the workplace should also be profiled. Additionally, many organisations sponsor Pink Dot, although unfortunately this is now only an option for local businesses.



## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps that employers can take to start creating a supportive workplace environment for their LGBT employees in Singapore:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
|--|---|

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> </ul> |
|---|--|

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEMALL'S GLOBAL DIVERSITY CHAMPIONS

### Barclays

Through unconscious bias training, Barclays Singapore enables its senior leaders to work towards an equal and inclusive work environment. The employee handbook also contains Barclays' LGBT inclusive anti-discrimination policy, building the foundation for an equal workplace environment. In 2012, Barclays Singapore made further commitments to the policy by introducing partner medical benefits for all employees, regardless of the partner's sex or gender identity. Barclays' LGBT network Spectrum has an active chapter in Singapore that works to enable LGBT employees to bring their whole selves to work. In October 2015, the Spectrum Allies Campaign was launched, with senior leaders showing their support by becoming allies or supporters of Spectrum. Beginning in 2015 and continuing annually, Spectrum Singapore organises a quiz night, the proceeds of which are donated to the local LGBT group Oogachaga. The network was also a founding sponsor of Pink Dot, and in 2017 Barclays supported a private showing of the play Tango based on real-life same-sex couple raising a family in Singapore.

### Norton Rose Fulbright

Norton Rose Fulbright's global diversity and inclusion strategy includes a focus on gender identity and sexual orientation. All global messaging related to these topics is accessible on the intranet to all staff in Singapore. In line with its global strategy, Norton Rose Fulbright has an Asia LGBTQA Pride network, consisting of partners, lawyers and business services staff. The network recently participated in, and sponsored, a raffle prize for a fundraiser organised by a local LGBT group. The group provides counselling, support and personal development for LGBT individuals, couples and families. In recognition of the firm's Global Inclusion Month in October, the Singapore office hosted an event where people from diverse backgrounds were invited to share their stories with staff. Participants included LGBT individuals.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**June** - Pink Dot SG: festival celebrating the LGBT community. [www.pinkdot.sg](http://www.pinkdot.sg)

**August** - IndigNation: LGBTIQ+ Pride season. [www.indignationsg.wordpress.com](http://www.indignationsg.wordpress.com)

Check the events websites for the most up-to-date information on dates and participation requirements.



### FIND LGBT GROUPS AND COMMUNITIES

**Oogachaga** - a group providing community-based counselling, support and personal development opportunities for the LGBTQ community. The group also runs professional and corporate trainings. [www.oogachaga.com](http://www.oogachaga.com)

**Purple Alliance** - an LGBT organisation conducting research and running events and training to empower individuals and advance the equality of LGBT people, including workplace equality. [www.thepurplealliance.com](http://www.thepurplealliance.com)

**Sayoni** - a community of LGBT women organising and advocating for equality regardless of gender identity and sexual orientation. [www.sayoni.com](http://www.sayoni.com)

**SG Rainbow** - a community group for gay, bi and queer men aged 18 to 35 in Singapore. [www.sgrainbow.org](http://www.sgrainbow.org)

**T Project** – an organisation running a shelter for trans people at risk in Singapore. The group also engages in campaigning and fundraising activities to empower the trans community in Singapore. [www.facebook.com/theprojectsg](https://www.facebook.com/theprojectsg)

**Inter-University LGBT Network** – a network of LGBT groups in Singapore universities collaborating to create safer and more inclusive school communities for everyone regardless of sexual orientation, gender identity and expression. [www.interunilgbt.wixsite.com/interunilgbt](http://www.interunilgbt.wixsite.com/interunilgbt)



### GET LOCAL LGBT UPDATES

**Dear Straight People** – an online LGBT publication based in Singapore. [www.dearstraightpeople.com](http://www.dearstraightpeople.com)



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# SOUTH KOREA



Population: 51+ million people



Stonewall Global Diversity Champions: 41



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations.

South Korea is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Articles 21 and 37 of the Constitution protect the **rights to freedom of expression, association and assembly**.

There are **no LGBT-specific restrictions or additions** to these rights.

### FAMILY AND SAME-SEX RELATIONSHIPS

**Sexual acts** between people of the same sex are **not generally criminalised**.

However, **'anal intercourse or other indecent acts'** with any **person working for the military** are **punishable** with up to **two years' imprisonment** under Article 92-6 of the Korean Military Criminal Act.

There is an **equal age of consent** of 13 years for sexual acts regardless of sexual orientation under Article 305 of the Korean Criminal Act.

In 2011, the Supreme Court ruled that **same-sex marriage is not legal** (2009Seu117).

There is **no legal recognition of same-sex relationships**.

Same-sex couples have **no legal right to adopt children** jointly or through second parent adoption. However, single people can adopt children under Article 10 of the Act on Special Cases Concerning Adoption.

### EQUALITY AND EMPLOYMENT

**Employment discrimination** against LGBT people is **not legally prohibited**.

However, the **National Human Rights Commission can investigate and remedy discriminatory acts based on 'sexual orientation, etc.'** under Article 2 of the National Human Rights Commission of Korea Act. It is **not clear whether 'etc.' includes gender identity**.

**Discrimination against prisoners and military inmates based on 'sexual orientation, etc.'** is **prohibited** under Article 5 of the Administration and Treatment of Correctional Institution Inmates Act and Article 6 of the Act on the Execution of Criminal Penalties in the Armed Forces. Again, it is **not clear whether 'etc.' includes gender identity**.

Article 11 of the Constitution states that **everyone is equal before the law**, but it does not explicitly refer to sexual orientation and gender identity.

### GENDER IDENTITY

**Trans people can change their legal gender** to female or male on certain identification documents, however this is **subject to obtaining permission from the family court** under Article 104 of the Act on the Registration, Etc. of Family Relationships.

Further **requirements for legal gender change** are a **medical diagnosis, sex-reassignment surgery, sterilisation and parental consent** as outlined in the Guidelines for Application on Change of Legal Gender of Trans People. However, these are **internal agency guidelines** and are not legally binding.

**Trans people can change their legal names** under Article 8 of the Guidelines for Application on Change of Legal Gender of Trans People.

For both legal name and legal gender change, **birth certificates and official documents that have already been submitted** (e.g. past tax filings) **cannot be amended**.

### IMMIGRATION

**Dependent visas** are available to partners of citizens and those with certain work visas, but it is **not specified whether this applies to same-sex couples**.

## A VIEW FROM SOUTH KOREA

**HaengSeongIn**, also known as Solidarity for LGBT Human Rights of Korea, is a South Korean LGBT human rights advocacy group. HaengSeongIn campaigns for LGBT equality, organises workshops and forums for LGBT communities and runs a resource centre.

Joontae Kim, member of HaengSeongIn's labour rights team, spoke to Stonewall to tell us about the situation for LGBT people in South Korea.



행동하는성소수자인권연대  
www.lgbtpride.or.kr

### Everyday life

Acceptance of LGBT people has increased in recent years. However, 79 per cent of South Koreans still say there are no LGBT people around them. In general, men show little affection towards each other in public, while women do regardless of sexual orientation. Many LGBT people still feel the need to hide their sexual orientation and gender identity. The media often portrays LGBT people as an issue rather than focusing on their actual lives. One of the biggest issues faced by LGBT people in South Korea is the lack of a law against discrimination based on sexual orientation and gender identity. Also, there is the military criminal code which criminalises same-sex relations between consenting adults even during their time off work. It is particularly problematic because Korea employs mandatory conscription system for men. If you reject to serve the country, you have to go to prison for the same period of time.

### LGBT groups and advocacy

LGBT groups have been pushing for a comprehensive law protecting LGBT people from discrimination for almost 10 years. It has been discussed by congress three times but never passed. There is a diverse range of very conservative groups putting a lot of effort into stopping the advancement of LGBT rights. Fortunately, many LGBT groups also exist that press for positive changes. However, with little funding available, too often we have to rely on the devotion and time of volunteer activists.

### Healthcare

There are very few hospitals offering specialist services for trans people. Where they do exist, they are not covered by health insurance and need to be paid for by the individual. Further, as same-sex relationships are not recognised in South Korea, LGBT people are not allowed the same access to information and visitation if their same-sex partner or legally unrecognised child is in hospital. Due to widespread treatment refusal, people living with HIV/AIDS have no hospital to go to. Only hospice centres run by Christian groups accept them but they provide poor services and are filled with hatred of homosexuality and AIDS. The Korea Centre for Disease Control is disregarding the cases of treatment refusal and saying there is nothing that they can do.

### Workplace

LGBT people rarely come out at work because they fear they will be harassed or lose their job. This is the result of a lack of legal protection, a lack of awareness, and a lack of education of non-LGBT colleagues. Even getting a job is often difficult for LGBT people. There are very strict gender norms in the labour market and if an applicant's gender expression is outside the male-female binary, they are often not hired. They may even be excluded from the hiring process as early as the written application form, as CVs need to include a picture of the applicant.

It's important that employers change their policies and benefits to guarantee LGBT people are treated equally. This includes having anti-discrimination policies that explicitly refer to sexual orientation and gender identity, as well as partner benefits that apply to same-sex couples. Global employers who present themselves as LGBT-inclusive organisations outside of South Korea, do not yet do the same in South Korea. This should change. In addition, it's difficult to enhance the rights of LGBT workers because the rights of workers in general unprotected. Therefore, it's essential to enhance the rights of all workers: the rights to organize, to collectively bargain, and others.

## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in South Korea:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li> <b>Consult local LGBT organisations to understand the local context for LGBT people</b></li> <li> <b>Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Train HR staff and promote inclusive policies</b></li> <li> <b>Carry out LGBT-inclusive diversity training</b></li> <li> <b>Encourage senior managers to promote their commitment to LGBT inclusion and equality</b></li> </ul> |
|--|---|

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li> <b>Audit and extend equal benefits to same-sex partners</b></li> <li> <b>Establish employee engagement mechanisms like LGBT networks and allies programmes</b></li> <li> <b>Carry out LGBT awareness-raising events</b></li> </ul> | <ul style="list-style-type: none"> <li> <b>Work with suppliers and partners to advance LGBT workplace equality</b></li> <li> <b>Partner with local LGBT groups to advance LGBT equality beyond the workplace</b></li> </ul> |
|---|---|

Sharing best practice on LGBT workplace inclusion helps other organisations develop and accelerates the pace of change. If your organisation runs any LGBT initiatives in South Korea – however big or small – let Stonewall know and share your work in this briefing.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**July** - Pride in Korea (Seoul). [www.kqcf.org](http://www.kqcf.org)

**July** - Korea Queer Film Festival (Seoul). [www.kqff.co.kr](http://www.kqff.co.kr)

Check the events websites for the most up-to-date information on dates.



### FIND LGBT GROUPS AND COMMUNITIES

**HaengSeongIn** – an advocacy group that campaigns for LGBT equality, organises workshops for LGBT communities and runs a resource centre. [www.lgbtpride.or.kr](http://www.lgbtpride.or.kr)

**DDing Dong** – a crisis support centre for LGBT youth offering mental health support and physical resources. [www.ddingdong.kr](http://www.ddingdong.kr)

**Korea Sexual Minority Culture and Rights Centre** – an association fighting for the integration of the LGBT population within society and the improvement of living conditions. [www.kscrc.org](http://www.kscrc.org)

**Ivan Stop HIV/AIDS Project** – a group providing information and support on health topics including HIV/AIDS. The group also offers free HIV tests in Busan and Seoul. [www.ishap.org](http://www.ishap.org)

**Chingusai** – a support organisation and resource centre for gay men. [www.chingusai.net](http://www.chingusai.net)

**Korea Lesbian Counselling** – an advice and information centre for the lesbian community in Korea. It also provides telephone and online counselling. [www.lsangdam.org](http://www.lsangdam.org)



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 41 ORGANISATIONS OPERATING IN SOUTH KOREA.

Our team of workplace advisors offers tailored one-to-one advice on how to create LGBT-inclusive workplaces globally. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact Stonewall.

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# THAILAND



Population: 68.6 million



Stonewall Global Diversity Champions: 55

## THE LEGAL LANDSCAPE

Stonewall uses broad legal zoning to group the differing challenges faced by employers across their global operations.

Thailand is classified as a Zone 1 country, which means sexual acts between people of the same sex are legal and clear national employment protections exist for lesbian, gay, and bi people.

To help put this into context, it is important to note that two further zones exist:

In Zone 2 countries, sexual acts between people of the same sex are legal but no clear national employment protections exist on grounds of sexual orientation. In Zone 3 countries, sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The **rights to freedom of expression, association and assembly** are protected under sections 34, 42 and 44 of the Constitution.

There **are no LGBT-specific restrictions or additions** to these rights.

### FAMILY AND RELATIONSHIPS

**Sexual acts** between people of the same sex are not criminalised and are therefore **legal**.

There is an **equal age of consent of 15 years** for sexual acts regardless of gender under Section 27 of the Penal Code.

**Same-sex marriage** is **not legal** because Section 1448 of the Civil and Commercial Code defines marriage as a union between a man and a woman.

In judgement No. 18776/2561, the Court of Appeal **recognised a same-sex civil partnership registered abroad** for the purposes of property law.

The Supreme Court ruled in judgement no. 157/2524 that **a person's sex they were assigned at birth** is used to **determine their gender** for the purposes of **marriage**.

Trans parenthood is not recognised. **Parenthood on birth certificates** is recorded based on the **parent's sex they were assigned at birth** under Supreme Court judgement no. 157/2524.

### EQUALITY AND EMPLOYMENT

**Discrimination** on the grounds of **gender identity** by government organisations, private organisations or individuals is **prohibited** under the Gender Equality Act 2015.

**Discrimination in employment** on the grounds of **sexual orientation** is **prohibited** under section 5.6 of the Thai Labour Standard: TLS 8001:2010.

Section 27 of the Constitution guarantees **equality before the law** based on a limited list of characteristics that does not include sexual orientation or gender identity.

Regulations addressing civil officials' uniforms **impose dress codes** on the basis of a **person's sex they were assigned at birth**.

### GENDER IDENTITY

Trans people **cannot change their legal gender**.

**Gender reassignment surgery** is **allowed** under clauses 5 and 6 of the Regulation of the Medical Council Concerning Ethics in the Medical Profession Rules for Treatment in Sex Change Operations 2009.

The **requirements** for this are **two medical opinions** and, if the person is **aged between 18 and 20, consent from an authorised guardian**.

Trans people **can change their legal name** under the Person Name Act. However, in practice, **attempted name changes may be denied** if they do not match a person's sex assigned at birth.

The **requirements** for a **legal name change** include **submitting an application** to the District Office and that the **name must not resemble the King or Queen's names** or be an **offensive term** under Sections 6 and 17 of the Person Name Act 1962.

Ministerial Regulation No. 75 2012, under the Military Enlistment Act 1954, **bans people with 'gender identity disorder' from military service**.

### IMMIGRATION

**Dependant visas are not available for same-sex partners** of people working in Thailand.



## A VIEW FROM THAILAND

Stonewall spoke to **Timo Ojanen**, an advisor with the **Foundation for SOGI Rights and Justice (FOR-SOGI)**. FOR-SOGI works in Thailand to promote and protect human rights for LGBT people through research, policy advocacy, strategic litigation, and awareness-raising campaigns.

Stonewall spoke to **Note Jetsada Taesombat**, Co-Founder and Executive Director of the **Foundation of Transgender Alliance for Human Rights (ThaiTGA)**. ThaiTGA works to advance the human rights of transgender people through advocacy, movement strengthening, and leadership development strategies.



**ThaiTGA**

The Foundation of Transgender Alliance for Human Rights



มูลนิธิเพื่อสิทธิและความเป็นธรรมทางเพศ  
Foundation for SOGI Rights and Justice

### Everyday life

**Timo:** “In Thailand, levels of acceptance for LGBT people vary. Acceptance is higher in informal settings like bars than formal settings like workplaces. LGBT people face challenges including stereotypes, regressive legislation, and limited access to healthcare. HIV prevalence is high, and many LGBT people aren’t accepted by their families and face bullying at school.

Religion, class and cultural norms can impact LGBT people’s experiences. Transgender and gender non-conforming individuals face more discrimination. If you’re middle class or wealthy you can circumvent discrimination by starting a business or responding legally to discrimination. However, middle-class parents may also expect their children to conform to their career expectations. LGBT people can then feel pressured to work somewhere where they must behave and dress according to norms for the sex they were assigned at birth.”

**Note:** “While Thailand can be seen as a paradise for LGBT people, significant violence and discrimination exists, especially for trans people. The lack of legal gender recognition forces trans people to out themselves and makes accessing services impossible. The only legislation protecting trans people is the Gender Equality Act but getting justice through the Act takes a long time and it offers limited protection. Acceptance for trans people in Thailand is conditional: trans people who are from a good family, meet traditional beauty standards and have money are more likely to be accepted. Trans people experience more pressure to succeed to prove they deserve acceptance.”

### LGBT Groups and Visibility

**Timo:** “LGBT groups can operate freely but registering with authorities can be challenging as they may consider groups ‘immoral’. Some advocacy targets for LGBT groups are equal marriage and legal gender recognition, non-discrimination in employment and education, access to LGBT-friendly health services, and appropriate coverage of LGBT topics in schools. Trans women, masculine lesbians and some famous gay men are quite visible. Bi people and feminine lesbians are invisible and, while trans women and gay characters are visible in the media, they are usually depicted problematically.”

**Note:** “While many organisations are working on trans issues, only two of them are formally registered. ThaiTGA’s focus is the draft legal gender recognition law. ThaiTGA are also developing an evidence base to support our work and creating guidelines for families on supporting trans family members.”

### Workplaces

**Timo:** “Discrimination in hiring and promotion at work is common, with employers often not realising they are being discriminatory. Sexual harassment is also commonplace, affecting both women and gay and bi men. The frequency of this depends on the kind of organisation. Multinational companies tend to be safer, but factories or more informal work, for example, have higher risks. Organisations should implement discrimination

and harassment policies covering sexual orientation, gender identity and expression and clearly communicate these to staff. Employers should make a public commitment to being inclusive, but they need to find a way to communicate this clearly because the word ‘inclusive’ does not exist in Thai. This can include stating their support for LGBT people in media appearances or at conferences and partnering with local LGBT organisations to implement inclusive practices.

More widely, businesses should portray LGBT people positively by not tokenising or misrepresenting LGBT people in adverts. They can also join business networks addressing LGBT equality. Sharing best practice, such as inclusive HR practices, can also be helpful.”

**Note:** “Trans people face challenges both accessing and during employment. At universities, trans people are discouraged from studying subjects like medicine or law, regardless of their ability, as there’s an assumption that they won’t be successful. During job applications, trans people are often told they can only have the job if they present as the sex they were assigned at birth. At work, trans employees are treated according to the sex they were assigned at birth, for example when given uniforms or when sharing rooms when travelling.

To support trans staff, organisation’s policies should reflect trans staff’s needs. Recruitment should focus on ability, not gender identity. Job adverts should not specify applicant’s gender. HR staff need to be trained on trans identities as they are the first point of contact in recruitment. Many HR staff believe trans people are mentally ill, which influences hiring decisions and needs to be addressed.

More widely, businesses should try to actively support the LGBT rights movement. Employers need to work with local NGOs and the trans community to show that the LGBT community isn’t just being used for marketing.”

### Healthcare

**Timo:** “Public healthcare is often overcrowded and staff can be insensitive, particularly to minorities such as LGBT people. Private healthcare is better but typically requires private health insurance or high payments. No sexual health services specifically address lesbian or bisexual women’s health. The situation is better for gay and bisexual men and trans women, with dedicated HIV testing and sexual health services in big cities. Some LGBT-friendly counselling services exist, mostly in Bangkok and as semi-professional hotline/online services, but these are often only available in Thai.”

**Note:** “Thai public healthcare doesn’t cover trans-specific treatments such as hormones or gender reassignment surgery. Many young people access hormones dangerously through the internet or black market. A few clinics and hospitals offer trans-specific support. Trans people in remote areas likely have no access to safe services. Some trans foreigners come to Thailand to get gender reassignment surgery but they should do thorough research because adverts can be dishonest.”

## LGBT INCLUSION IN THE WORKPLACE

Stonewall's [Global Workplace Equality Index](#) is the definitive benchmarking tool for global LGBT workplace equality. It's a great way to assess your organisation's progress and navigate the challenges of upholding inclusive values locally. The Global Index provides your organisation with a clear and rigorous action plan for your LGBT inclusion work across the globe.

The Index evaluates an organisation's performance across eight areas of employment policy and practice. In line with these areas, in Thailand, employers can work to:

1. Implement LGBT-inclusive **policies and benefits**, such as anti-discrimination and bullying and harassment policies, transitioning at work policies, and equal partner and family benefits.
2. Carry out comprehensive **all-staff training** on sexual orientation and gender identity.
3. **Engage staff** by setting up local LGBT employee network groups and developing ally programmes.
4. Empower **senior leaders** to advance LGBT inclusion within your organisation and advocate for equality.
5. Assess whether you can **monitor** sexual orientation and gender identity data in order to understand and improve the experiences of LGBT employees.
6. Evaluate your **procurement** practices to ensure LGBT inclusion forms part of the tendering process and your engagement with potential and existing suppliers.
7. Work to understand the **local context** and support **local communities** by partnering with local LGBT groups.
8. Ensure your **mobility** policies account for employees' sexual orientation and gender identity and provide staff travelling to or from Thailand with adequate, LGBT-specific information.



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### Willis Towers Watson

Willis Towers Watson's anti-discrimination and bullying and harassment policies in Thailand are explicitly inclusive of LGBT people. Partners of employees all receive the same benefits, regardless of gender. To promote LGBT equality outside of the organisation, Willis Towers Watson sponsors a range of external events and runs sessions focusing on the LGBT community in Thailand. LGBT-specific training was run in the office, focusing on the rights of LGBT people and how to put the training into practice in workplaces in the region. Awareness-raising events were also held, including an IDAHOT event at the Embassy of the Netherlands that Willis Towers Watson sponsored and organised a session for, and a session in the Bangkok office on the benefits that promoting LGBT rights can have for staff. Willis Towers Watson has partnered with Out BKK to organise awareness-raising events. Finally, Willis Towers Watson in Thailand partnered with the Ho Chi Minh office to hold a session on LGBT rights in Ho Chi Minh, Vietnam.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**February** – Gay Pride Chiang Mai [www.facebook.com/cnxpride](http://www.facebook.com/cnxpride)

Check the events websites for the most up-to-date information on dates.



### FIND LGBT GROUPS AND COMMUNITIES

**FOR-SOGI** – a Thai non-governmental organisation working to promote human rights based on sexual orientation and gender identity and expression. [www.forsogi.org](http://www.forsogi.org)

**Out BKK** – a business network raising awareness, providing advice and supporting career development for LGBT people in the workplace. [www.facebook.com/outinBKK/](http://www.facebook.com/outinBKK/)

**Rainbow Sky Association of Thailand** – a local organisation working to promote human rights and legal protections for LGBT people in Thailand and support HIV and healthcare efforts. [www.rsat.info](http://www.rsat.info)

**Togetherness for Equality and Action (TEA)** – a lesbian, queer and bi women-led group that aims to empower LBT youth activists from traditionally marginalised communities. [www.teagroup.org](http://www.teagroup.org)

**Youth Voices Count** – a network dedicated to empowering LGBT youth to advocate on health, safety, security and social acceptance in Asia and the Pacific. [www.facebook.com/youthvoicescount](http://www.facebook.com/youthvoicescount)



### NATIONAL HUMAN RIGHTS INSTITUTION

**National Human Rights Commission of Thailand** – [www.nhrc.or.th](http://www.nhrc.or.th)

The National Human Rights Commission of Thailand is Thailand's National Human Rights Institution where complaints about human rights violations on the grounds of sexual orientation and gender identity can be made.



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 55 ORGANISATIONS OPERATING IN THAILAND.

The **Global Diversity Champions** programme gives employers the tools they need to take a strategic and structured approach to LGBT equality initiatives globally and provides a network to keep them informed of legal changes and implications for their staff wherever they are in the world. Our team of workplace advisors offer tailored one-to-one advice on how to create LGBT-inclusive workplaces globally and members gain exclusive access to our full library of resources offering step-by-step guidance on different areas of LGBT inclusion. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact [memberships@stonewall.org.uk](mailto:memberships@stonewall.org.uk)

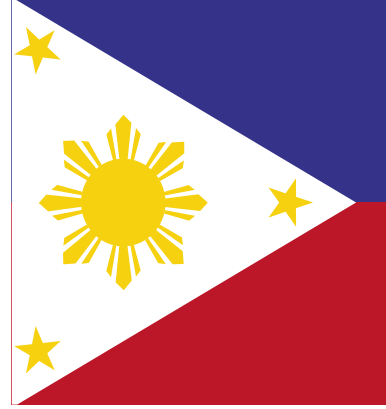
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# THE PHILIPPINES



Population: 103 million people



Stonewall Global Diversity Champions: 30



## THE LEGAL LANDSCAPE

In Stonewall's **Global Workplace Equality Index**, broad legal zoning is used to group the differing challenges faced by organisations across their global operations

The Philippines is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist.

Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and clear national employment protections exist on grounds of sexual orientation, while in Zone 3 countries sexual acts between people of the same sex are illegal.

### FREEDOM OF EXPRESSION, ASSOCIATION AND ASSEMBLY

Article 3 Section 4 of the Constitution protects every **citizen's right to freedom of speech, expression and assembly**.

There are **no LGBT-specific restrictions or additions** to these rights.

### FAMILY AND SAME-SEX RELATIONSHIPS

**Sexual acts** between people of the same sex are **legal**.

There is an **equal age of consent** of 18 years for sexual acts regardless of sexual orientation under Article 266-A of the Revised Penal Code.

**Same-sex marriage** is **not legal** under Article 1 of the Family Code and there is **no legal recognition of same-sex relationships**.

'**Lesbianism**' and '**homosexuality**' are listed as **grounds for marriage annulment** under Articles 46 and 55(6) of the Family Code.

**Same-sex couples** have **no legal right to adopt children** jointly or through second parent adoption. However, **single people can legally adopt** children.

### EQUALITY AND EMPLOYMENT

Article 13 Section 3 of the Constitution provides the **right to equality of employment opportunities** for all but there is **no explicit reference to sexual orientation and gender identity**.

**Employment discrimination against public social workers based on sexual orientation is prohibited** under Section 17 of the Magna Carta for Public Social Workers.

Article 2 Section 14 and Article 3 Section 1 of the Constitution protect **rights to equality before the law** but there is **no explicit reference to sexual orientation and gender identity**.

It is **unclear whether hate crimes based on sexual orientation or gender identity** will be **considered an aggravating circumstance in sentencing** under Article 14(3) of the Revised Penal Code. This is disputed because the article refers to sex but does not expressly mention sexual orientation and gender identity.

### GENDER IDENTITY

**Trans people** are **not able to change their legal gender on identification documents**.

**Legal name change** is **possible** under **specific circumstances**, however **being trans** is **not one of these** circumstances listed under RA 9048.

### IMMIGRATION

Same-sex **dependant visas** are **not available** because same-sex marriages are not recognised.



## A VIEW FROM THE PHILIPPINES

**GALANG** is a Philippine organisation with a special focus on the rights of lesbians, bi women and trans men. Established in 2008, the group works to empower urban poor LBT people to attain social and economic equality.



**Maroz Ramos**, Deputy Executive Director of GALANG, spoke to Stonewall about the situation for LGBT people in the Philippines.

### Everyday life

In general LGBT people still experience discrimination, bullying and sometimes even violence throughout the country. As no national anti-discrimination law offers protection, many LGBT people cannot claim their basic rights and can be discriminated against at work, denied access to services, and so on. In general, foreign LGBT people experience less overt discrimination and harassment than local LGBT people but this doesn't mean that they never do. It's also still very challenging for LGBT people to come out to their families. Those who do are often rejected and thrown out of their homes. This can lead to the inability to finish school and they are more likely to experience poverty. However, we have also seen positive changes in recent years. While the media often portrays LGBT people in a stereotypical and negative way, some positive LGBT role models are starting to emerge, both in the media and in politics. This will have a positive impact on LGBT people in the Philippines.

### LGBT groups and advocacy

LGBT groups operate across the country, offering support and working to advance equality. Many groups are working on introducing comprehensive anti-discrimination legislation in the Philippines. While 15 cities have local anti-discrimination legislation, there is no national law protecting LGBT people from discrimination. A proposed national bill has been in congress for 18 years. While progress has been slow, there have been recent positive developments. We also have a sizable number of congress members who are in favour of the bill and who help us push for it.

### Healthcare

While national healthcare insurance exists, there is little to no specialised healthcare for LGBT people. There are no specialised services for trans people and no hormone therapy is available. Trans people who wish to transition medically need to travel to another country, but many cannot afford this. When LGBT people seek to access general healthcare, they often face discrimination and verbal harassment from staff.

### Workplace

Accessing work is often very difficult for people who are visibly LGBT. If an applicant's gender expression is perceived to be outside the male-female binary, they are often not hired no matter their qualifications. Many LGBT people only find work in the informal sector or even have to move abroad. Those who do find work often experience discrimination and harassment by colleagues. LGBT employees are often told to change their physical appearance to look more 'feminine' or 'masculine'. Many also hide their sexual orientation and gender identity to be treated more equally.

Employers can and should make sure their policies are LGBT inclusive. This reaches from explicit anti-discrimination policies and more flexible dress codes to equal partner benefits. It's also incredibly important to train and educate staff on LGBT issues. This can help eliminate discrimination from recruitment processes and help change the hearts and minds of co-workers. Many LGBT organisations in the Philippines, such as GALANG, offer such training and can help organisations become more LGBT inclusive.



## LGBT INCLUSION IN THE WORKPLACE

### THE FOUNDATIONS

There are several steps employers can take to start creating a supportive workplace environment for their LGBT employees in the Philippines:

- ✓ **Consult local LGBT organisations to understand the local context for LGBT people**
- ✓ **Introduce explicitly LGBT-inclusive anti-discrimination and bullying and harassment policies**
- ✓ **Train HR staff and promote inclusive policies**
- ✓ **Carry out LGBT-inclusive diversity training**
- ✓ **Encourage senior managers to promote their commitment to LGBT inclusion and equality**

### NEXT STEPS

Once a foundation has been built, there are further steps employers can take to bring about positive change for LGBT people. For example:

- ✓ **Audit and extend partner benefits to same-sex partners**
- ✓ **Establish employee engagement mechanisms like LGBT networks and allies programmes**
- ✓ **Carry out LGBT awareness-raising events**
- ✓ **Partner with local LGBT groups to advance LGBT equality beyond the workplace**
- ✓ **Work with suppliers and partners to advance LGBT workplace equality**

Employers can improve their initiatives by participating in Stonewall's Global Workplace Equality Index - a free benchmarking tool offering a clear roadmap to LGBT inclusion in the workplace. [www.stonewall.org.uk/gwei](http://www.stonewall.org.uk/gwei)



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### Thomson Reuters

With support from Thomson Reuters' (TR) global LGBT staff network, a local chapter was set up in the Philippines in 2012. Through forums, reverse-mentor programmes and training, the network focuses on awareness raising to create inclusive workplaces for LGBT employees. The network is also instrumental in reviewing internal practices. For example, they worked with the HR team to make TR the first organisation in the Philippines to offer partner benefits to employees in same-sex relationships. This process involved cooperating with, and changing the practices of, vendors and suppliers to offer same-sex couple benefits across healthcare, pension schemes and insurance. TR now works with other businesses in the Philippines encouraging them to introduce equal benefits. For example, TR shares its best practice as a founding member of the Philippine Financial Industry Pride, a network of companies working for LGBT equality. TR also engages with local Philippine businesses, inviting them to awareness-raising events. Nowadays, many of TR's applicants state that they wish to work for TR because of its inclusive workplace culture and equal partner benefits.

### Accenture

**Rica Paras** is senior manager for Technology at Accenture. She is also the Pride at Accenture network lead in Southeast Asia and a network member in the Philippines. Rica shares her experiences in the network:

**How did you get involved with the network?** I'm active in several LGBT groups and speak publicly about my experience as a trans woman in the Philippines. It was natural to join the network when I started at Accenture in 2013. Back then, the network had around 50 members, now we have more than 500.

**Why is it important to have a network in the Philippines?** When the network started in 2005, only allies were members. At the time, LGBT employees did not feel comfortable being out. It's difficult when no anti-discrimination laws exist for LGBT people. Now, however, many LGBT employees are members, which shows the network's positive impact at Accenture. The fact that senior leaders support the network also sends a strong message and enables LGBT employees to bring their authentic selves to work.

**What activities does the network organise?** We focus a lot on education, for example through allies training programmes and awareness-raising events. For one panel event, we invited a famous TV show host who identifies as LGBT. We also march in Manila Pride alongside other businesses and exchange best practices as a member of the Financial Industry Pride.

**What have some of the network's biggest achievements been?** Thanks to the hard work of the network and Accenture, we now have gender-neutral bathrooms and a gender dress policy based on self-identification. We also offer equal employee partner benefits regardless of sexual orientation.



## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**June** - Metro Manila Pride. [www.mmpride.org](http://www.mmpride.org)

**June** - Cebu Pride. [www.facebook.com/Cebu.LGBTQ](http://www.facebook.com/Cebu.LGBTQ)

**August** - LGBT Workplace Equality Conference. [www.lgbtph.org](http://www.lgbtph.org)

**September** - University of the Philippines Dilman Pride.

[www.facebook.com/uppride](http://www.facebook.com/uppride)

**December** - Baguio LGBT Pride Parade.

[www.facebook.com/amiananpridecouncil](http://www.facebook.com/amiananpridecouncil)

Check the events websites for the most up-to-date information on dates.



### FIND LGBT GROUPS AND COMMUNITIES

**ASEAN SOGIE Caucus** - a regional network of LGBT rights organisations in Southeast Asia, based in the Philippines. [www.aseansogiecaucus.org](http://www.aseansogiecaucus.org)

**Association of the Transgender People in the Philippines** - a community group for trans people in the Philippines, welcoming trans people from the Philippines and abroad. [www.philippine-transgender-movement.com](http://www.philippine-transgender-movement.com)

**Galang** - a group focusing on the rights and empowerment of poor urban lesbian, bi and trans communities. [www.galangphilippines.org](http://www.galangphilippines.org)

**LAGABLAB LGBT Pilipinas** - a network of LGBTQ organisations, individuals and allies seeking to advance and protect the human rights of the LGBT community with special focus on legislation and policymaking [www.facebook.com/lagablablgbt](http://www.facebook.com/lagablablgbt)

**Lezworld** - an online community for lesbian women. [www.lezworld.com.ph](http://www.lezworld.com.ph)

**Mujer-LGBT Organization** - a group advocating for HIV/AIDS prevention and awareness as well as against gender-based violence. [www.facebook.com/mujerorganizationz](http://www.facebook.com/mujerorganizationz)

**Philippines LGBT Chamber of Commerce** - a membership-based industry organisation of businesses working for LGBT equality in the Philippines. [www.lgbtph.org](http://www.lgbtph.org)

**Side B Philippines** - a group for bi activists with a focus on bi visibility and employment equality. [www.facebook.com/SideBPhil](http://www.facebook.com/SideBPhil)



### GET LOCAL LGBT UPDATES

**Outrage Magazine** – an online and printed LGBT publication in English. [www.outragemag.com](http://www.outragemag.com)



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Every effort has been made to ensure that the information contained in this Global Workplace Briefing is correct as of February 2018. Introducing any new initiative requires careful consideration and the safety of staff should always be of paramount importance. This overview is for guidance purposes only and does not constitute, nor should it be interpreted as a substitute for, detailed legal advice. If you have any specific legal concerns, always consult with local legal experts. Stonewall Equality Ltd, Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)