



# INDONESIA

## LGBT+ Business Climate Score

Out Leadership's snapshot of the current state of affairs for LGBT+ people, through the lens of international business.

The business Climate Score rating is out of ten possible points, and is based on ten independently verifiable indicators of the legal, cultural and business context for LGBT+ people.

**2.5**



1. Are consensual homosexual acts between adults legal?	<b>0.5</b> <i>No, but it is effectively criminalized in many places</i>	6. Is sex reassignment surgery at birth for intersex children prohibited?	<b>0</b> <i>No</i>
2. Is marriage or civil unions for same-sex couples available?	<b>0</b> <i>No</i>	7. Are sexual orientation and gender identity discrimination in employment prohibited?	<b>0</b> <i>No</i>
3. Is being LGBT+ punishable by death?	<b>1</b> <i>No</i>	8. Is there a US State Department warning against travel for LGBT+ individuals?	<b>0</b> <i>Yes</i>
4. Are sexual orientation and gender identity discrimination in the provision of goods and services prohibited?	<b>0</b> <i>No</i>	9. Do companies sponsor Pride or other means of promoting LGBT+ visibility?	<b>0</b> <i>No</i>
5. Can transgender people legally change their gender markers?	<b>0.5</b> <i>Yes, but they must obtain a court order</i>	10. Are there laws prohibiting freedom for assembly or speech for LGBT+ people (i.e. "Anti-propaganda" laws, media gags, etc)?	<b>0.5</b> <i>No, but advocacy is informally discouraged</i>

# How to Use This Brief

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As a business leader, you have the opportunity to create change for LGBT+ people around the world – both within your organizations and in the countries where you do business. This brief provides valuable information to inform your conversations with:

**Internal Staff:** Ensure that staff at your company who do business in-country are aware of the laws and other regulations that impact LGBT+ people there, and that they've adopted the appropriate internal policies for their location.

**Government Leaders:** In your meetings with government leaders, particularly those focused on business expansion or diplomacy, we encourage you to bring up the information shared in this brief in an appropriate way, and help them understand how LGBT+ inclusive policies are part of your company's best practices, and acknowledged as global standards. You are the best person to judge whether you have the ability to have such a conversation with a local leader in an appropriate way. Your Government Affairs officer, Diversity & Inclusion head, or equivalent may be appropriate to include in these conversations.

**In-country Business Partners:** In conversations with business partners, when appropriate, ask them what they're doing to address LGBT+ inclusion, and help explain why inclusion positively impacts your ability to conduct business there.

## Talking Points

"The government's consideration of a ban on consensual same-sex relations, combined with the recent surge in anti-LGBT+ actions by Indonesian government officials, is causing significant alarm for multinational corporations with investments and operations in the country.

"Indonesia's lack of protections for LGBT+ people makes it difficult for me to move talent into Indonesia's emerging economy."

"Indonesia's investors are strongly questioning the economic implications of anti-LGBT+ laws and policies."

"The severity of laws in some parts of Indonesia, such as the possibility of whipping as a punishment for gay people in Aceh Province, where the Sharia law in effect criminalizes same-sex relations, is increasingly damaging Indonesia's reputation in the international business community."

"By maintaining laws that are hostile to LGBT+ visitors and tourists, Indonesia is missing out on a significant tourist market and opportunity to expand its economy. In the U.S. alone, LGBT+ tourists spend \$65 billion per year on hotels, flights, and other tourism-related. Laws such as those in Aceh can stain the entire country's reputation – even far away in Bali."

"If the government repeals anti-LGBT+ laws, tens of thousands of LGBT people will be able to participate more fully and openly in the economy – something Indonesia can be proud of in terms of human rights and economic growth."



# Current Legal Status of LGBT+ People

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## *Legal Status of the Lesbian, Gay, and Bisexual Community*

At a national level, there are no laws prohibiting adult consensual same-sex sexual behavior. There are currently discussions to criminalize same-sex behavior amidst a morality campaign to overhaul the national Criminal Code.

At a provincial level:

Sharia law is implemented in Aceh province, and homosexual acts are illegal and offenders may be punished by corporal punishment (i.e. caning) and incarceration.

In the province of South Sumatra, there are local ordinances that criminalize same-sex activities, together with prostitution.

## *Legal Status of the Transgender and Gender-Diverse Communities*

Transgender people in Indonesia have officially been able to change their gender identity since 1973, upon completion of surgery, but it requires a hard-to-secure court order that makes it rare in practice.

Transgender people report harassment with impunity by gangs, security forces, and, in Aceh, the "Sharia Police." In some cases, transgender women have been arrested without charge and detained.

In January 2018, the police and the Sharia police in Aceh conducted a joint raid of five hair salons that employed waria, or transgender women. Multiple people were arrested and some were forced to strip off their shirts and cut their hair in public.

# Current Legal Status of LGBT+ People

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## *Government Statements and Actions*

There are currently discussions to criminalize same-sex behavior amidst a morality campaign to overhaul the national Criminal Code.

In May 2018, in Aceh Province (where Sharia is implemented), two young men who had been found in bed together when vigilantes entered their residence without permission were flogged. It was the first caning of gay men in Indonesia.

In April 2018, the Constitutional Court ruled that the central government could no longer repeal local Sharia ordinances, a decision which will prevent the federal Home Ministry from abolishing ordinances which violate the rights of LGBT+ people and women.

In February 2016, the Indonesian Broadcasting Commission banned LGBT+ related content that depicted it as "normal" on TV and Radio.

In February 2016, Saleh Pataonan Daulay, head of the House of Representatives Commission on religious and social affairs, called for an end to UNDP support for LGBT+ issues, stating their assistance is interfering in "the country's standards" and must not be allowed.

## ***Government Statements and Actions (cont.)***

In February 2016, Defense Minister Ryamizard Ryacudu called pro-LGBT+ activism "more dangerous than a nuclear bomb."

In January 2016, Indonesia's Minister of Technology, Research and Higher Education, Muhammad Nasir, publicly called for LGBT+ persons to be barred from universities because they "corrupted the morals of the nation."

In January 2016, the Minister of Culture and Education, Anies Baswedan, warned parents and teachers that LGBT+ people were deviant and a danger to adolescents.

In January 2016, a member of the Indonesian House of Representatives, Nasir Djamil, called for an end to LGBT+ campus groups, and said that LGBT+ people should be barred from holding campus discussions because they are a danger to society. According to the group Arus Pelangi, in the three months following this spate of homophobic rhetoric by politicians saw 142 cases of violence and discrimination against the Indonesian LGBT+ community.

# **Socio-cultural Environment of LGBT+ People**

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## ***Status of LGBT+ Organizing and Community***

Indonesia has several LGBT+ community organizations around the country. They act as support and outreach networks and struggle to maintain funding flows. They are well-connected with other human rights organizations in the country.

According to a 2014 USAID/UNDP report, about 120 LGBT+ grassroots organizations are currently in operation in Indonesia, working primarily in health issues, publishing and organizing social and educational activities.

Nonetheless, even prominent activists face harsh realities. Hartoyo, a LGBT+ leader who now lives in Jakarta, fled his home in Aceh Province after a mob tortured him upon discovering he lived with his boyfriend.

## ***Cultural Views of the LGBT+ Community***

A 2013 Pew Research Center report about global attitudes toward gays and lesbians found that 93% of Indonesians did not believe that homosexuality should be "accepted by society," making the country one of the least tolerant nations surveyed.

Attitudes toward LGBT+ people in Indonesia have only deteriorated since that survey. A 2016 report from Human Rights Watch noted that "beginning in January 2016...., a series of anti-LGBT public comments by government officials grew into a cascade of threats and vitriol against LGBT Indonesians by state commissions, militant Islamists, and mainstream religious organizations."

In 2018, Human Rights Watch analyzed recent polling in Indonesia on LGBT+ issues: "A 2016 opinion poll showed that 26 percent of Indonesians disliked LGBT people — making them the most disliked group in the country, overtaking the historical placeholders: communists and Jewish people. A 2017 study found that more Indonesians feared LGBT people than could define the acronym or the population it referred to." As a result, by 2018 Indonesia's federal government was debating making same-sex relations illegal.

Many anti-LGBT+ public sentiments rest on the idea that sexual orientation and gender identity are products of the West and run counter to the country's Islamic values, an argument local LGBT+ leaders consistently attempt to dismantle.

# Impact of LGBT Discrimination on Business & Talent



## BRAND RISK **NOTABLE**

There is brand risk in supporting the LGBT+ community in Indonesia due to the possibility of provoking negative reactions from religious and government officials. In the current climate, it is possible pro-LGBT+ expression may bring official censure or censorship.

## CLIENT RISK **NOTABLE**

Due to the LGBT+ and global political communities' increased scrutiny of LGBT+ rights in Indonesia, LGBT+ clients may choose to move their patronage away from companies that conduct business in Indonesia.

## TALENT RISK **NOTABLE**

It is difficult to relocate LGBT+ talent to Indonesia, due to a reasonable fear of harassment and discrimination and an inability to secure spousal visas.

## MARKETING RISK **HIGH**

Given widespread anti-LGBT+ sentiment, corporations who broadcast LGBT+ inclusive marketing will likely provoke an uproar.

# Local Leaders Advocating for LGBT Equality

Out Leadership encourages you and your firm to engage in safe and cautious discussion with local leaders around LGBT+ equality and to leverage your firm's influence to support their work. We have consulted with the following leaders on this brief:

**Hartoyo**  
Chairperson, Suara Kita

## Purpose

Multinational companies face operational and reputational risk when they do business in countries where the legal and/or social atmosphere makes it difficult for LGBT+ people to live openly. Discrimination against LGBT+ people creates serious challenges for talent mobility, retention, and development.

Out Leadership's LGBT+ CEO Business Briefs seek to help C-Suite leaders understand and respond to these risks. Secondly, these Briefs seek to inform and empower corporate executives to engage in conversations with trade officials and other local stakeholders about why discrimination against LGBT+ people negatively impacts their ability to do business.



## Additional Resources

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### **2016 International Gay and Lesbian Association State Sponsored Homophobia Report**

This report contains a country-by-country analysis of anti-LGBT laws and policies around the world.

### **2016 Human Rights Watch World Report**

This report contains a country-by-country analysis of human rights concerns for 2014, and includes specific information pertinent to LGBT issues.

## Special Thanks

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### **Pro Bono Legal Partner**

We thank our partners at Ropes & Gray, who have vetted the legal facts in this brief.

**ROPES & GRAY**

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OutLeadership.com  
+1.917.336.0604  
info@outleadership.com

520 West 43rd Street New York, NY 10036 USA

nglcc   
Certified LGBTBE

Certified  
  
Corporation