



## 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.

8.5

0	1	2	3	4	5	6	7	8	9	10	
1. Are consensual homosexual acts between adults legal?					1 Yes	6. Is sex reassignment surgery at birth for intersex children prohibited?					0.5 Yes but require gender reassignment surgery.
2. Are marriage or civil unions for same-sex couples available?					1 Yes	7. Are sexual orientation and gender identity discrimination in the provision of goods and services prohibited?					1 Yes
3. Is being LGBT+ punishable by death?					1 No	8. Is there a US State Department warning against travel for LGBT+ individuals?					0 The warning says Taiwan does not recognize same sex marriage (which is outdated) and LGBT+ individuals may still face lack of tolerance in areas outside Taipei. <sup>2</sup>
4. Are sexual orientation and gender identity discrimination in employment prohibited?					1 Yes <sup>1</sup>	9. Do companies sponsor Pride?					1 Yes
5. Can transgender people legally change their gender markers?					1 Yes	10. Are there laws prohibiting freedom of assembly or speech for LGBT+ people (i.e. "anti-propaganda laws", media gags, etc)?					1 No

1. 就業服務法第 5 條(<https://law.moj.gov.tw/LawClass/LawAll.aspx?pcode=N0090001>). Although gender identity discrimination is not explicitly called out, there are cases that suggest the prohibition covers discrimination against transgender workers (see pg. 29 of <https://www-ws.gov.taipei/Download.ashx?u=LzAwMSgVcGxvYVQvMzA3L3JlbGZpbGUvMTE5MjAvMzU5NjY0LzZMxMTAzODE3NzEucGRm&n=MzExMDM4MTc3MS5wZGY%3D&icon=.pdf>)

2. <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Taiwan.html>

## How to Use This Brief

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

- Taiwan's openness to LGBT+ rights and LGBT+ communities makes it easier for businesses to attract talents.<sup>3</sup>
- In 2019, Taiwan became the first country to legalize same-sex marriage in Asia.
- For Taiwan to become a even more open and free society for global talents, there needs to be an increase in the awareness of the challenges faced by the transgender community, from the rigidness of official policies and procedures to the macroaggressions the community endures.

3. Lloyd Blankfein, chief executive at Goldman Sachs, once commented that "unless gay people felt confident that their family would be treated in the same way as the family of a straight employee, then they would be unhappy and unwilling to move around the world for roles, he said. That meant the company would fail to attract a set of very talented people." <https://www.ft.com/content/73512064-3a15-11e3-9243-00144feab7de>.



# Current Status of LGBT+ People

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

- **The provisions on marriage in Taiwan's Civil Code had once prohibited same-sex marriage.** In 2017, the Justices of the Constitutional Court in Taiwan ruled that such provisions were unconstitutional and gave the government two years to amend the laws to allow for same-sex marriage.<sup>4</sup> A referendum was held in 2018, where Taiwan voters rejected the idea of same-sex marriage.<sup>5</sup> But the Constitutional Court ruling was not affected. In 2019, a draft bill that would allow for same-sex marriage was passed by the executive branch of the Taiwan government and subsequently approved by the legislative branch. Same-sex marriage became legal on May 24, 2019.<sup>6</sup>
- Adoptions by same-sex couples are limited to the biological children of either partner.<sup>7</sup> Assisted reproductive technologies are by law only available to heterosexually married couples.<sup>8</sup>
- Discrimination based on sexual orientation was ruled unconstitutional in 2017.<sup>9</sup> There are specific statutes in place prohibiting such discriminations in education<sup>10</sup>, employment<sup>11</sup> and long-term care services.<sup>12</sup>
- Lesbian, gay and bisexual people have been able to serve openly in the military.<sup>13</sup>
- Since 2018, Taiwan has permitted gay and bisexual men to donate blood following five years of abstinence from sex.<sup>14</sup>

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

- No laws specifically penalize transgender individuals.
- Discrimination based on gender identity is illegal in education<sup>15</sup> and employment<sup>16</sup>.
- Since 2010, household registration offices are required to accept photos that are consistent with applicants' usual dressing and appearance for national ID purposes.<sup>17</sup> Anecdotes from local forums suggest that transgender individuals have been able to update the national ID photos to reflect their gender identities with success.<sup>18</sup>
- Changing the legal gender marker still requires the surgical removal of sexual organs under the current administrative rules by the Ministry of Interior.<sup>19</sup> Following government panel meetings with experts and non-governmental organizations, the Ministry of Interior proposed in 2015 to eliminate the requirement for such surgeries, but the proposal is currently on hold.<sup>20</sup>

4. <https://law.judicial.gov.tw/LAWENG/FINT/data.aspx?NO=748&KW=&SDATE=&EDATE=&PAGE=1>

5. <https://www.bbc.com/news/world-asia-46329877>

6. Articles 2 and 24 of the Act for Implementation of J.Y. Interpretation No. 748(司法院釋字第748號解釋施行法第2條、第24條)

7. Article 20 of the Act for Implementation of J.Y. Interpretation No. 748(司法院釋字第748號解釋施行法第20條)

8. Artificial Reproduction Act (人工生殖法). See law firm memo on how this act fits together with the Act for Implementation of J.Y. Interpretation No. 748: <https://zhongyinlawyer.com.tw/%E5%90%8C%E5%A9%A4%E4%BC%B4%E4%BE%B6%E4%B9%8B%E8%A6%AA%E6%AC%8A-%E8%AB%96%E5%90%8C%E5%A9%A4%E4%BC%B4%E4%BE%B6%E9%81%A9%E7%94%A8%E3%80%8A%E4%BA%BA%E5%B7%A5%E7%94%9F%E6%AE%96%E6%B3%95%E3%80%8B/?lang=ja>

9. “憲法第7條規定：「中華民國人民，無分男女、宗教、種族、階級、黨派，在法律上一律平等。」本條明文揭示之5種禁止歧視事由，僅係例示，而非窮盡列舉。是如以其他事由，如身心障礙、性傾向等為分類標準，所為之差別待遇，亦屬本條平等權規範之範圍。”釋字第748號解釋 (<https://consjudicial.gov.tw/jcc/zh-tw/jep03/show?expno=748>)

10. Gender Equity Education Act <https://law.moj.gov.tw/LawClass/LawAll.aspx?pcode=H0080067>

11. Act of Gender Equality in Employment <https://www.global-regulation.com/law/taiwan/9330939/act-of-gender-equality-in-employment.html>

12. Long-Term Care Services Act (長期照顧服務法第1條) <https://law.moj.gov.tw/LawClass/LawAll.aspx?pcode=L0070040>

13. <https://www.bbc.com/zhongwen/trad/chinese-news-50179645>

14. Pg. 6 of <https://gazette.nat.gov.tw/egFront/detail.do?metaid=97210&log=detailLog>

15. Gender Equity Education Act Articles 13-14 <https://law.moj.gov.tw/Eng/LawClass/LawAll.aspx?PCode=H0080067>

16. Taiwan has two legal regimes governing the issue of employment discrimination: the Employment Services Act of 1992 and the Gender Equality in Employment Act of 2002. (<https://citeserxist.psu.edu/viewdoc/download?doi=10.1.1.453.9394&rep=rep1&type=pdf>). Neither explicitly reference gender identity. However, a case in 2012 found it illegal for a hospital to fire an employee who cross-dresses at work (<https://news.cts.com.tw/cts/general/201208/201208221078481.html>). And a law firm survey suggested that employment discrimination based on gender identity is prohibited (<https://www.dlapiperintelligence.com/goingglobal/employment/index.html?t=og-discrimination>).

17. Ministry of Interior, administrative rule No. 0990169583.

18. According to Macquarie team's research on local forums.

19. Ministry of Interior, administrative rule No. 0970066240

20. <https://www.istscare.org/gender-recognition-opendoc/>



## Government Statements and Actions

- Current President, Tsai Ing-wen has showed her support for LGBT+ rights publicly for several times.
- In January 2018, it was announced that plans to introduce a third gender option on identification documents, such as passports and the National Identification cards, would be implemented in the near future.<sup>21</sup> In November 2018, Chen Mei-ling, the Minister of the National Development Council, announced that these plans will come into effect in 2020-2021<sup>22</sup>.
- In 2018, the Ministry of Healthcare and Welfare denounced the practice of sexual orientation conversion therapies to uphold the individual right to sexuality.<sup>23</sup> This is in contrast to sex reassignment surgeries, which are legitimate in Taiwan although not reimbursable under Taiwan's national health insurance.<sup>24</sup>
- In 2016, Andrey Tang was named as minister without portfolio, being the first transgender official in Executive Yuan.
- The Ministry of Education decided to include topics on LGBT rights and non-discrimination in school curriculum and non-discrimination in 2010.<sup>25</sup>

## Socio-Cultural Environment for LGBT+ People

### Status of LGBT+ Organizing and Community

- The annual Taiwan LGBT Pride has taken place for 17 years. The event in 2019 reportedly attracted over 200,000 participants, making it the largest pride parade in Asia.
- Taiwan boasts several long-standing LGBT+ organizations, including Tongzhi Hotline Association that provides peer mentoring and support networks to the community and runs a community center for LGBT individuals and allies.

### Cultural Views of the LGBT+ Community

- Cultural views of the LGBT+ community is overall supportive, although some say people in Taiwan are largely indifferent.<sup>26</sup> Overall, reported instances of violence against LGBT+ individuals were rare, and the police response was adequate.<sup>27</sup> Nevertheless, LGBT+ individuals may still face lack of tolerance in areas outside Taipei.<sup>28</sup>
- Taiwan is seen as the most receptive environment in Asia for LGBT+ arts (including literary and cinematic works).<sup>29</sup>
- In 2018, 29 Taiwanese and multinational companies operating in Taiwan released a statement in support of LGBT+ equality.<sup>30</sup>
- Cultural views toward the transgender community is comparatively more conservative. Recent surveys show a substantial minority of the transgender Taiwanese have experienced workplace discrimination or bullying. Most transgender Taiwanese are afraid of using a public restroom.<sup>31</sup>

### Local Leaders Advocating for Equality

There are many openly LGBT+ activists and politicians in Taiwan. Contenders for Out Leadership's recommendations are:

- Weng Yu-ching (XXXX), Taiwan Marriage Equality Coalition (chosen by CNN in 2019 as one of the five young leaders driving change in Asia)
- Yu Zhi-Yun XXXX director-general of Taiwan Tongzhi Hotline Association
- Chi Chia-wei XXXX regarded as a pioneer in advocating LGBT+ equality in Taiwan
- Politicians such as Lin Ying-Meng XXXX Huang Jie XXXX

21. Yi, Beh-Lih (16 January 2018). "Taiwan mulls third gender option on passports, IDs" Reuters.

22. Power, Shannon (22 November 2018). "New national ID card will recognize trans as a third gender in Taiwan". Gay Star News (<https://www.gaystarnews.com/article/new-national-id-card-will-recognize-trans-as-a-third-gender-in-taiwan/>)

23. [https://www.laws.taipei.gov.tw/lawsystem/wfLaw\\_Interpretation\\_Content.aspx?SOID=182409](https://www.laws.taipei.gov.tw/lawsystem/wfLaw_Interpretation_Content.aspx?SOID=182409)

24. National Health Insurance Act Article 51 <https://law.moj.gov.tw/ENG/LawClass/LawAll.aspx?pcode=L0060001>

25. <https://www.fridae.asia/gay-news/2010/03/08/9717.school-textbooks-to-introduce-gay-topics-from-2011-taiwans-ministry-of-education>

26. <https://international.thenewslens.com/feature/lgbttaiwan/113536>

27. <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/taiwan/>

28. <https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/Taiwan.html>

29. <https://edition.cnn.com/style/article/lgbtq-artists-taiwan/index.html>

30. <https://www.hrc.org/news/historic-27-taiwanese-multinational-companies-speak-out-for-lgbtq-equality>

31. <https://www.taipetimes.com/News/taiwan/archives/2020/04/01/2003733781>

# Impact of LGBT Discrimination on Business & Talent

1 • NO RISK

2 • LOW RISK

3 • MODERATE RISK

4 • NOTABLE RISK

5 • HIGH RISK

## BRAND RISK **LOW**

As LGBT+ rights in Taiwan are among the most progressive in Asia, there is little brand risk in operating in Taiwan.

## CLIENT RISK **LOW/MODERATE**

Cultural views may give rise to some level of risks that transgender clients in particular may feel alienated by business conducted in Taiwan. .

## TALENT RISK **LOW/MODERATE**

Same-sex relation has never been illegal, and same-sex marriage is recognized. However, cultural views toward transgender individuals may not be as supportive.

## MARKETING CHALLENGES **LOW**

The lack of censorship over LGBT+ related contents allows for wide freedom of marketing to LGBT+ consumers in Taiwan.







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