



JAPAN

## 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.

**5.5**

0 1 2 3 4 5 6 7 8 9 10

1. Are consensual homosexual acts between adults legal?	<b>1</b> Yes	6. Is sex reassignment surgery at birth for intersex children prohibited?	<b>0</b> No
2. Is marriage or civil unions for same-sex couples available?	<b>0.5</b> Yes, in some municipalities	7. Are sexual orientation and gender identity discrimination in employment prohibited?	<b>0</b> No
3. Is being LGBT+ punishable by death?	<b>1</b> No	8. Is there a US State Department warning against travel for LGBT+ individuals?	<b>1</b> No
4. Are sexual orientation and gender identity discrimination in the provision of goods and services prohibited?	<b>0</b> No	9. Do companies sponsor Pride or other means of promoting LGBT+ visibility?	<b>1</b> Yes
5. Can transgender people legally change their gender markers?	<b>0</b> Not without sterilization	10. Are there laws prohibiting freedom for assembly or speech for LGBT+ people (i.e. "anti-propaganda laws", media gags, etc)?	<b>1</b> No

# 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

"Japan's refusal to pass laws protecting LGBT+ people and recognizing same-sex marriage makes it difficult for me to consider relocating my talented LGBT+ staff to the country."

"Passing comprehensive anti-discrimination laws to protect LGBT+ people will make Japan a more attractive environment for foreign investment and tourism."

"LGBT+ consumers are a powerful market worth 6.6 trillion yen (\$63 billion) a year, according to one estimate. By failing to protect LGBT+ people and to recognize them as equal under the law, Japan is missing out on a significant market opportunity."

"Given recent surveys that put Japan's LGBT population at between 5.2 and 7.6% of the overall population, legalizing gay marriage and outlawing anti-LGBT+ discrimination would allow 6.6 to 9.7 million people to more fully participate in Japan's social, cultural, political, and economic life."

"Japan's attitudes toward transgender people are outdated. Current law requires people who wish to change their gender marker to undergo sterilization, which is harmful and based on antiquated and discriminatory thinking. It's hard to imagine global companies relocating top trans talent to Japan under the current law."





# Current Legal Status of LGBT+ People

---

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

Japan was the first country in Asia to legalize homosexual acts between consenting adults, and to make the age of consent for same-sex relations the same as for opposite-sex relations, both in 1880.

Same-sex marriage is not legal in Japan. However, in November 2015, Tokyo's Shibuya and Setagaya wards began issuing "partnership" certificates to same-sex couples recognizing same-sex unions as "equivalent to marriage," the first places in East Asia to do so. Though not legally binding, the certificates give same-sex couples shared housing and hospital visitation rights. However, they do not confer any tax benefits, social welfare benefits or parental rights. Iga, Takarazuka, Naha, Sapporo, Fukuoka and Osaka have also joined in this initiative.

Japanese nationals are permitted to marry same-sex foreign partners in countries where same-sex marriage is legal. In 2009, the Justice Ministry instructed local authorities to begin issuing the required certificate — which states that a person is single and of legal age—for people who want to marry someone of their own sex.

Same-sex couples are not allowed to legally adopt in Japan. However, in 2017 Osaka officially recognized same-sex couples as eligible to be foster parents.

Lesbian couples are unable to access IVF or other artificial insemination services.

A number of private companies, including IBM Japan, Kirin, Rakuten, and Japan Tobacco, are proactively instituting policies to provide the same level of paid leave for marriage, childbirth, home care and other life events to same sex-couples.

Though discrimination on the basis of sexual orientation or gender identity is banned in certain Japanese cities (such as Tokyo), there are no national anti-discrimination laws, and no penalties for such discrimination. The Equal Opportunity Law has been revised several times to address sex discrimination and harassment in the workplace, but the government has refused to expand it to include discrimination against gender or sexual identity. There are no laws against LGBT+ hate crimes.

The Law for the Prevention of Spousal Violence and the Protection of Victims does not apply to same-sex partners: LGBT+ people can experience physical, sexual and psychological violence at the hands of their partners but have no recourse to the law.

In 2013 Yodogawa-Ku in Osaka passed a resolution officiating support for LGBT inclusion including mandating LGBT sensitivity training for ward staff. This was also followed in Naha in 2015.

In 2017, the education ministry added sexual orientation and gender to its national bullying policy for the first time to address the issue of bullying, endemic nationwide.

Article 23(1) of Japan's Housing Law was abolished in October 2013 allowing same-sex partners to be eligible for public housing. However, in reality most municipalities decide who can rent public housing under the Public Housing Law.

Since 2008, the Urban Renaissance Agency has allowed same-sex couples to rent governmental housing from it. This was also followed in Osaka in September 2005.

Gay and bisexual men can openly serve in the military.

# Current Legal Status of LGBT+ People

---

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

Under the "Gender Disorder Identity" Act, which went into effect in 2004, transgender people can legally change their legal gender, but only after being diagnosed with "Gender Identity Disorder," undergoing sex reassignment surgery, and proving that they are over 20 years old, sterile, unmarried and have no minor children.

In a 2019 report, [Human Rights Watch](#) noted that "requiring [trans people to obtain] medical intervention as a condition of having their gender identity legally recognized violates Japan's human rights obligations and runs counter to international medical standards."

In December 2013, the Supreme Court recognized a paternity claim by a transgender man for a son born through artificial insemination by a donor. A lower court had ruled that the two could not be related because the father was not biologically capable of reproduction as a male, but the landmark Supreme Court decision established that the child should be recognized as the couple's legitimate offspring.

The Ministry of Health, Labour and Welfare has allowed transgender people to use their preferred names on their health insurance cards.

Ochanomizu University, the national women's university in Tokyo, will start accepting transgender women from 2020.

## *Government Statements and Actions*

Lower House member Mio Sugita called gay couples "unproductive" and questions whether it is "appropriate to spend taxpayer money on them."

The Tokyo municipal government launched a 'LGBT Friendly Tokyo' campaign in 2018 to stamp out hate speech and gender discrimination in preparation for the 2020 Olympic games.

The Health, Labour and Welfare Ministry has stated that the Act on Securing Etc. of Equal Opportunity and Treatment between Men and Women in Employment extends to discrimination of LGBT.

In April 2017, Osaka became the first Japanese city to certify a gay couple as foster parents.

Prime Minister Shinzo Abe has said that the Japanese Constitution, which defines marriage as "based only on the mutual consent of both sexes," does not envisage marriage between people of the same sex.

A Japanese city assembly member in Takarazuka said in 2015 that his city's pro-LGBT+ initiatives would turn it into "the center for HIV infections" and that educating students about sexual minorities "could encourage students to become LGBT people influenced by the environment." His remark was attacked by another assembly member as being discriminatory; he later withdrew it and requested that it be struck from the official record.

Japan's former Minister of Education, Culture, Sports, Science and Technology, Hiroshi Hase, pledged support for LGBT+ students, saying that sexual-minority students are poorly understood by their teachers, classmates, and family and have been left out. Hase helped launch a multi-party caucus in early 2015 to eradicate anti-gay discrimination by the 2020 Tokyo Olympics.

In April 2015, the Ministry of Education issued a notice to local education boards urging schools to do more for transgender students. However, it predicated this support on diagnoses of "Gender Identity Disorder," which many transgender people find stigmatizing and discriminatory.

The mayor of Yokohama, Japan's second largest city, has said that accepting same-sex couples would help revive Japan's ailing economy.

# Socio-cultural Environment of LGBT+ People

---

## *Status of LGBT+ Organizing and Community*

LGBT+ NGOs are free to organize, but there have been some instances of bullying, harassment, and violence.

Gay Pride parades have taken place for more than 20 years in Japan, with the 2014 Tokyo parade featuring an appearance by First Lady Akie Abe riding a float.

The country's first Pride Index report was launched in fall 2016. The report ranks Japanese companies according to how well they treat their LGBT+ workers. Of the 82 companies that applied to be assessed, 53 earned top status.

## *Cultural Views of the LGBT+ Community*

While consensual homosexual acts between adults are legal in Japan, there is significant societal stigma surrounding LGBT+ people, who face marginalization, discrimination and invisibility. Prejudice prevents many LGBT+ people from being open about their sexual orientation and from reporting discrimination and abuse.

Nonetheless, 41% of Japanese people say gay marriage should be legalized, compared to 37% who disagree, according to a 2015 survey by Asahi Shimbun newspaper. And one survey in 2016 found that a full 90% of Japanese parents would ultimately accept their children who came out as LGBT+.

In November 2015, a Japanese life insurer, Lifenet Insurance Co, announced that it would expand its coverage for same-sex couples; it is believed to be the first such move allowing a policy-holder to designate a same-sex partner as a beneficiary. A few other businesses have begun extending benefits and service to same-sex couples with partnership certificates.





# Impact of LGBT Discrimination on Business & Talent

1 • NO RISK

2 • LOW RISK

3 • MODERATE RISK

4 • NOTABLE RISK

5 • HIGH RISK

## BRAND RISK **NONE**

In terms of supporting LGBT+ rights, there is little brand risk to operating in Japan.

## CLIENT RISK **NONE**

The Japanese government does not actively persecute LGBT+ individuals; accordingly, there is low risk of an international firm losing LGBT+ clients because they do business in Japan.

## TALENT RISK **MODERATE**

Same-sex spouses aren't recognized in Japan and therefore cannot easily obtain spousal visas. Although the Ministry of Justice issued an instruction in October 2013 that said non-Japanese who are married to a Japanese national abroad where it was legal to do so and wanted to stay in could apply for a visa for 'special activity', this does not confer the same status as a spousal visa. This creates difficulties for companies seeking to relocate employees who are in same-sex marriages and partnerships.

## MARKETING RISK **LOW**

LGBT+ consumers are estimated to spend 6.6 trillion yen (\$63 billion) a year, according to the Tokyo-based consultancy Qocci, and some companies have begun targeting that market. Businesses can engage in marketing friendly to LGBT+ people to tap into this opportunity but may find some challenges in the face of ongoing societal stigmatization.

## Local Leaders Advocating for LGBT Equality

There are many openly LGBT+ activists and experts in Japan. Out Leadership recommends:

**Kazu Terada**  
President  
EMA (Equal Marriage Alliance) Japan

**Fumino Sugiyama**  
Transgender Activist  
Tokyo Rainbow Pride

**Kan Kikumoto**  
LGBT+ student activist

## 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

---

### **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

---

Our partners and colleagues at the Global Equality Fund, 11.e Council/or Global Equality, The Palette Fund, The United States Department of State, Stonewall, Gay, Lesbian & Straight Education Network, Oogachaga, OutRight Action International, Human Rights Watch, and the Williams Institute were instrumental in the creation of this brief.

We also want to thank Out Leadership's Global Advisory Board Members and our member companies' senior leaders, who have committed to using the brief.

### **Pro Bono Legal Partner**

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

**ROPES & GRAY**

---

OutLeadership.com  
+1.917.336.0604  
info@outleadership.com

520 West 43rd Street New York, NY 10036 USA

nglcc   
Certified LGBTBE

Certified  
  
Corporation