



## 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.



# 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

"Ending discrimination against LGBT+ people in India will help the economy. According to a special report issued by the World Bank, the economic impact of homophobia costs India anywhere from 112 billion rupees (\$1.9 billion) to 7 trillion rupees (\$30.8 billion) annually."

"The decriminalization of homosexuality is a huge step forward, but there's still much work to do."

"Conservative estimates suggest that from 4-6% of the general population identifies as LGBT+, meaning that there could be 50-75 million LGBT+ people in India. If the government instates anti-discrimination laws for the LGBT+ populace, millions of LGBT+ people will be able to participate more fully in the economy."



# Current Legal Status of LGBT+ People

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

In September 2018, India's Supreme Court delivered a landmark judgment in which it held Section 377 (in so far as it applies to consenting adults) unconstitutional and decriminalized homosexuality.

The judgment does not provide any civil rights to homosexual unions. No rights for marriage or civil partnerships are available.

Previously, the Supreme Court had found that privacy is a "fundamental right." In its ruling, the Court specified that Section 377 has a chilling effect on "the unhindered fulfilment of one's sexual orientation, as an element of privacy and dignity."

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

In July 2017, a Parliamentary committee submitted a report examining the draft Transgender Persons (Protection of Rights) Bill, which was introduced in Parliament in 2016. The report recommends that the bill enact into law a 2014 Supreme Court ruling that guaranteed transgender people the right to self-determine their gender identity.

In 2010 the Election Commission officially recognized a gender identity of "other" in voter registration forms for transgender and gender non-binary individuals. In 2014, the Supreme Court decided in *National Legal Services Authority v Union of India* that "transgender" would be a third option on all official documents.

The benefits accorded to transgender persons vary across India. In certain provinces, transgender people are provided with resources and government assistance; in other provinces, the needs of the transgender community are sorely neglected.

Some transgender people decline to officially change their gender because it would exclude them from some of the country's gender-based inheritance laws.

## *Government Statements and Actions*

Prime Minister Narendra Modi has not made any official statement on the Supreme Court's decriminalization of homosexuality; however, his federal government had not opposed the decriminalization of homosexuality, stating that they would leave the verdict to the "wisdom of the court".

Following the judgment, the Indian National Congress party (the largest opposition political party) made a statement in support of the judgment and of upholding rights of LGBT+ people.

In 2016, India abstained from a successful UN Human Rights Council vote to create an independent position charged with preventing discrimination against LGBT+ people.



# Socio-cultural Environment of LGBT+ People

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## *Status of LGBT+ Organizing and Community*

LGBT+ groups are active throughout the country, though mostly in urban areas. Advocacy groups and collectives regularly sponsor pride marches, cultural events, and public events.

## *Cultural Views of the LGBT+ Community*

LGBT+ groups report that they face widespread discrimination and violence throughout society, particularly in rural areas. However, there is growing support from the media, general public, and several political parties. This support is bolstered by the decriminalization of homosexuality which is hoped to inspire greater societal acceptance for LGBT+ people.

Particular groups of transgender people, such as Hijras and Shiv Shaktis, have played a major role in Indian culture for centuries, and are accepted within certain communities.

Advocacy organizations, such as the Mission for Indian Gay and Lesbian Empowerment (MINGLE), have documented workplace discrimination against LGBT+ persons, including slurs by colleagues and supervisors, as well as unjustified dismissals.



# 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**

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

## CLIENT RISK **LOW**

India's decriminalization of homosexuality has positively impacted its global reputation; companies bear only a slight risk of losing LGBT+ clients when they do business in India.

## TALENT RISK **NOTABLE**

Same-sex spouses aren't recognized and therefore cannot easily obtain spousal visas. This creates difficulties for companies seeking to relocate employees who are in same-sex marriages.

## MARKETING RISK **MODERATE**

There's a sizable LGBT+ community in India, but it's still significantly closeted. Marketing directly to LGBT+ audiences can provoke a backlash.

## Local Leaders Advocating for LGBT Equality

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

**Arun Jaitley**  
Indian Minister of Finance

**Kapil Sibal**  
Former Indian Minister of Justice

**Gopi Shankar**  
Intersex Activist

**Ashok Ro Kavi**  
Founder and Chairperson, Humsafar Trust

**Anjali Gopalan**  
Executive Director, The Naz Foundation

## 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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