

MEXICO



Population: 124+ million



Stonewall Global Diversity Champions: 46



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.

Mexico 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 Constitution (1917) protects the rights to **freedom of expression and peaceful association and assembly** for legal purposes for every individual.

Any act intended to prevent the participation in associations, or any limits to the **freedom of expression** will be **considered a discriminatory act** (Article 9 of the Federal Law to Prevent and Eliminate Discrimination 2003).

There are **no LGBT-specific additions or restrictions** 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** for sexual acts regardless of gender under Article 261 of the Federal Criminal Code. This age can vary between States.

Marriage between same-sex couples is **legal** and regulated by the Civil Codes of **10 States**.

In 2005, the **Supreme Court** ruled that the Civil Codes of those States which say that marriage can only occur between a man and a woman, are unconstitutional. This **obliges every State to legally recognise marriage** between same-sex couples.

At a federal level, civil partnerships are not recognised. At the state level, **six States do recognise same-sex registered partnerships**. Attached rights are similar to those of marriages, but not the same.

The adoption of children by same-sex couples is only regulated in three States. Notwithstanding, in 2011 the Supreme Court of Justice declared **constitutional the right** of same-sex married couples **to adopt**.

In 2017, jurisprudential criteria **confirmed the right of same-sex married couples to adopt** and **includes** the possibility of the use of **scientific methods** for procreation.

EQUALITY AND EMPLOYMENT

Article 1 of the Constitution **prohibits discrimination based on sexual orientation**.

Article 2, 5 and 56 of the Mexican Federal Labour Law (1970) **prohibit employment discrimination based on gender or sexual orientation**.

There is no prohibition of discrimination that makes explicit reference to gender identity but **trans people are protected** under the general anti-discrimination provision.

Under the Criminal Code of Mexico City (2002), hate crimes committed based on sexual **orientation and/or gender identity** are **considered an aggravating circumstance**.

Under the Federal Criminal Code, **those who deny** the provision of a **service, deny or restrict labour and/ or educational rights due to reasons of sexual preference** are **punished with imprisonment or community work and a fine**. The penalty is increased if the individual committing the crime is a public officer or if there is an existing labour relationship with the victim.

GENDER IDENTITY

On a **federal level, no gender recognition** exists.

Article 135 Bis (2008) of the Civil Code of **Mexico City** (1928), Article 36 of the Civil Code of the State of **Nayarit**, and Article 117 of the Family Code of the State of **Michoacán** are the **only legal provisions regulating gender recognition** in Mexico.

The person must be 18 years of age and present the change request before the Registry Office of Mexico City, Nayarit or Michoacán. **No surgical intervention or medical diagnosis** is needed. The legal gender can only be changed to female or male.

IMMIGRATION

Pursuant to Article 55 (2014) of the Immigration Law (2011), **dependent visas are available to partners of people working** in the country. The applicable legal framework does **not specify** if these are **available for same-sex partners**.



A VIEW FROM MEXICO

César Cassas Ferrer is President and Founder of the Federación Mexicana de Empresarios LGBT (Mexican Federation of LGBT Business). The organisation seeks to promote economic growth enterprises, businesspeople and entrepreneurs that are either LGBT or LGBT-inclusive.



What are some of the remaining legal challenges for LGBT people in Mexico?

A lot of progress has been made for the legal equality of LGBT people in Mexico. However, more needs to be done for full legal equality. For example, equal marriage exists but not on a national level.

In May 2016, the President of Mexico, Enrique Peña Nieto, proposed to change the Constitution and national civil code to legalise same-sex marriage. This followed a ruling by the Supreme Court stating that it was unconstitutional for states to bar same-sex couples from getting married. However, no tangible actions have yet followed the President's announcement. It is worrying that some religious groups are now protesting with the aim of limiting the rights of LGBT people.

What is the lived situation for LGBT people in Mexico?

The lived reality for lesbian, gay and bi people differs greatly in different parts of Mexico. In Mexico City and some other big cities there is a higher level of acceptance and there are many LGBT community spaces and events. However, in smaller cities people are often less familiar with, and less educated about, LGBT issues, which makes it harder for LGBT people to come out. Even though laws exist to protect LGBT people, they aren't always applied consistently in rural areas.

Trans people face high levels of discrimination throughout the country. Violent hate crimes are regularly committed against trans people, and often end in murder. Many trans people are also expelled from their family homes at a young age, cannot complete school and face severe barriers when trying to access the job market.

What are the barriers LGBT people face in the workplace?

Again, this will depend very much on whether the individual works in a big or small city. Smaller towns are often less accepting, and many LGBT people hide their sexual orientation and gender identity because they fear that it will be detrimental to their career.

The workplace also differs for LGBT people depending on whether they work for a multinational organisation or local employer. Many multinational organisations have diversity and inclusion initiatives that promote LGBT equality in the workplace. When such initiatives are absent, LGBT employees may not dare to be out to their colleagues and employers.

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

Employers should audit their policies and benefits and make sure that these are inclusive of LGBT people. For example, harassment of and discrimination against LGBT employees should be expressly banned. Benefits, such as parental leave, should be available regardless of the gender of the employee or their partner. Businesses can also engage their employees through LGBT and allies network groups.

Employers should engage with LGBT organisations to learn from their expertise and to offer support. Through engaging with other businesses, employers can drive best practice in LGBT diversity and inclusion throughout the 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 Mexico:

-  **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



LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

Baker McKenzie Baker McKenzie's anti-discrimination policy in Mexico bans discrimination based on sexual orientation and gender identity. The policy applies during recruitment as well as the full employment cycle. Awareness sessions are carried out to talk about the importance of acceptance and zero tolerance of any type of discrimination. These sessions are mainly focused on LGBT inclusion and are aimed at creating engaged and supportive teams. In 2012, all employee benefits were extended to cover same-sex couples. Since then, partners of employees receive the same benefits regardless of sex. Baker McKenzie's Diversity and Inclusion committee works to promote an open-minded culture where every LGBT employee feels welcomed. As part of the committee's work, all employees were encouraged to participate in unconscious bias training. The training aimed to stop biased behaviour against LGBT people and other marginalised groups inside and outside the workplace. As part of D&I initiatives in Mexico, Baker McKenzie is now part of Pride Connection Mexico. This is a network of companies that share and promote best practice regarding LGBT+ workplace inclusion. Baker McKenzie participate in their monthly sessions and events and provide pro bono support.

IBM More than 30 years ago, IBM included sexual orientation as part of its Equal Opportunity policy and included gender identity and expression in 2002. In Mexico, IBM has provided equal partner benefits to its employees in same-sex relationships since 2004. IBM Mexico engages its LGBT employees through a business resource group (BRG), EAGLE. The BRG conducts specific events to recruit straight allies and conducts straight ally certification training. As an example, IBM offers facilitated sessions on LGBT inclusion to help non-LGBT employees better understand issues their LGBT colleagues face in the workplace. EAGLE also runs a reverse mentoring program, in which LGBT employees act as mentors and line managers as mentees. IBM Mexico's leadership team participates in unconscious bias training. Each June is LGBT Pride month at IBM Mexico, during which a series of awareness-raising events are organised. The LGBT network supports these events, for instance by providing rainbow ally and LGBT lanyards for employees to wear in the offices. IBM Mexico is a founding member of the Mexican National Lesbian and Gay Chamber of Commerce and works actively with this organisation to secure supplier diversity and to share best practices with clients and business partners. IBM is also a founding member of PRIDE CONNECTION, a group that aims to share LGBT-inclusion practices among member companies and hosts networking events for our employees.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

March – Premio Maguey Over the Rainbow Film Festival. www.figc.mx/maguey

June – Guadalajara Pride. www.guadalajarapride.com

June – Mexico City Pride / Marcha del Orgullo LGBT de la Ciudad de México.
www.facebook.com/MarchaLGBTCDMX

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



FIND LGBT GROUPS AND COMMUNITIES

Centro Apoyo Identidad de Trans – a Mexico City-based trans rights organisation working to influence policy and defend the human rights of trans people with a focus on the areas of health, employment and social justice.
www.centroapoyoidentidadestrans.blogspot.com

Familias por la Diversidad – an organisation for parents of LGBT children working to advance acceptance of LGBT people.
www.familiasporladiversidad.org

Centro Comunitario de Atención a la Diversidad Sexual – a community centre in Mexico City, promoting the rights of LGBT people.
www.facebook.com/centro.comunitario.lgbt

Federación Mexicana de Empresarios LGBT – an organisation promoting economic growth enterprises, businesspeople and entrepreneurs that are either LGBT or LGBTinclusive. www.fmelgbt.mx



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 46 ORGANISATIONS OPERATING IN MEXICO.

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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C R E E L

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