

**Stonewall**

# ABOUT THIS RESOURCE

**This resource is produced by Stonewall, a UK-based charity that stands for the freedom, equity and potential of all lesbian, gay, bi, trans, queer, questioning and ace (LGBTQ+) people.**

At Stonewall, we imagine a world where LGBTQ+ people everywhere can live our lives to the full.

Founded in London in 1989, we now work in each nation of the UK and have established partnerships across the globe. Over the last three decades, we have created transformative change in the lives of LGBTQ+ people in the UK, helping win equal rights around marriage, having children and inclusive education.

Our campaigns drive positive change for our communities, and our sustained change and empowerment programmes ensure that LGBTQ+ people can thrive throughout our lives. We make sure that the world hears and learns from our communities, and our work is grounded in evidence and expertise.

To find out more about our work, visit us at [www.stonewall.org.uk](http://www.stonewall.org.uk)

**Registered Charity No 1101255 (England and Wales) and SC039681 (Scotland)**

Stonewall is proud to provide information, support and guidance on LGBTQ+ inclusion; working towards a world where we're all free to be. This does not constitute legal advice, and is not intended to be a substitute for legal counsel on any subject matter.

## CHILE



Population: 17.9 million



Stonewall Global Diversity Champions: 54



## THE LEGAL LANDSCAPE

Stonewall uses broad legal zoning to group the differing challenges faced by employers across their global operations.

Chile 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.

To help put this into context, it is important to note that 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

Article 19 No. 12, 13 and 15 of the Constitution protect **the rights to freedom of expression, association and assembly**.

These may be restricted under specific circumstances but there are **no LGBT-specific restrictions or additions** to these rights.

## FAMILY AND RELATIONSHIPS

**Sexual acts** between people of the same sex over the age of 18 are not criminalised and are therefore **legal**.

The **age of consent is 18 years for same-sex intercourse** between men and **14 years for opposite-sex intercourse** under Articles 363 and 365 of the Criminal Code. Constitutional Court rulings have established the age of consent for **same-sex sexual intercourse between women as 14 years**.

**Same-sex marriage is not legal** under Article 102 of the Civil Code and Law No. 19,147 as marriage is defined as a union between a man and a woman.

All couples, including **same-sex couples**, can enter a **civil union** under Law No. 20,830. These unions mainly provide financial rights, such as inheritance in the case of the death of a partner. They do not provide equivalent rights to marriage.

Same-sex couples have **no legal right to adopt** children as only married couples can adopt children.

## EQUALITY AND EMPLOYMENT

**Employment discrimination** on the grounds of **sexual orientation and gender identity** are **prohibited** under Article No. 2 of the Labour Code.

**Discrimination** on the grounds of **sexual orientation and gender identity** is also **criminalised** under Law No. 20,609 and Article 5 (b) of Law No. 21,120, which comes into effect in October 2019.

Article 19 No. 2 of the Chilean Constitution provides for **equality before the law**. There is no explicit reference to sexual orientation and gender identity.

Hate crimes based on **sexual orientation and gender identity** are considered an **aggravating circumstance** in sentencing under Article No. 12.21 of the Criminal Code.

## GENDER IDENTITY

Trans people **can change their legal gender** under Article No. 6 of Law No. 21,120, which comes into effect in October 2019. **No documents are exempt from this**.

Legal gender can **only be changed to male or female**. There is no option to change legal gender to a third gender.

**For those aged 18 or older**, legal gender change is subject to a **formal application to the Civil Registry and statements from two witnesses**.

**For minors**, legal gender change is subject to a **formal application** submitted before a Family Court and **completion of a psychological test**.

Under Law No. 21,120, which comes into effect in October 2019, trans people can **change their legal name** through the same procedure as a legal gender change.

## IMMIGRATION

The Chilean Immigration Department **grants visas for same-sex partners**, however, this is **not legally regulated** and is at the discretion of the Immigration Department.



## A VIEW FROM CHILE

Stonewall spoke to **Emilio Maldonado**, General Director of **Iguals Servicios Educativos y Consultoría** and the Coordinator of **Pride Connection Chile**. **Iguals Servicios Educativos y Consultoría** works towards the full inclusion of LGBT people in Chilean society by advocating for policy change, increasing education on sexual orientation and gender identity, and supporting employers to create inclusive workplaces. **Pride Connection Chile** is a network of over 50 major businesses working towards full LGBT inclusion.

Stonewall spoke to **Matías Valenzuela Cortez**, Legal Consultant and **Franco Fuica**, Coordinator of Legislation and Public Policies at **Asociación OTD Chile (Organizando Trans Diversidades)**. The organisation works towards the recognition and empowerment of trans and intersex people through research, advocacy, and training programmes with employers in Chile.



### Everyday life

**Emilio:** “Chile has become a much better place for LGBT people. Legislative goals like civil unions, anti-discrimination law, and the Gender Identity Act have been achieved. However, people still face discrimination, especially in rural areas. Some conservative groups attack LGBT people and while physical violence is unusual, verbal and psychological violence is not uncommon. Gender impacts LGBT people’s experiences. Gay and bi men face fewer challenges than lesbians, bi women and trans people, particularly trans women, due to the patriarchal culture here.”

**Matías and Franco:** “Inequality significantly impacts trans people’s lives. Trans people also face discrimination, with trans men and trans women experiencing this differently. Trans women are more likely to be poor and face extreme day-to-day discrimination. However, trans men can face other types of harm such as ‘corrective’ rape and violence.”

### LGBT groups

**Emilio:** “LGBT groups can operate freely and aren’t usually harassed or persecuted. However, LGBT organisations lack resources and funding. They’re very grassroots as the government and businesses haven’t fully realised the importance of LGBT organisations. Many LGBT groups focus on legal recognition in areas like marriage equality and adoption and on violence against LGBT people. Iguals Servicios Educativos y Consultoría is focusing on workplace equality.”

**Matías and Franco:** “While LGBT groups can generally operate freely, right-wing politicians use support for LGBT rights to appear progressive and downplay their historic responsibility for human rights violations. Trans people can also face a lot of hate speech online. The state offers no financial support to LGBT groups, making it much harder to operate.”

### Visibility

**Emilio:** “Many LGBT people are out to friends and family in private. In public, it depends on whether a space is considered safe. LGBT people are somewhat visible in the media, particularly gay men and some trans activists. However, lesbians and bi people are much less visible.”

**Matías and Franco:** “There have been some steps towards trans visibility. The release of *A Fantastic Woman*, which won an Oscar, has been hugely influential. Some people working in trans rights organisations and the private sector are very visible, although this is an exception. Trans people and trans issues are somewhat visible in the media but are often not addressed sensitively.”

### Workplaces

**Emilio:** “Workplaces are conservative and most LGBT people, especially trans people, are afraid of being fired if they come out. Trans people also face significant barriers to formal employment. We hope the implementation of the Gender Identity Act in October 2019 will slightly improve the situation, as people will be able to obtain documents matching their gender identity.”

To support LGBT employees, employers need to take LGBT inclusion seriously. Businesses need to genuinely commit to implementing inclusive practices, such as ensuring policies explicitly include LGBT staff. However, to be a true ally to the LGBT community, employers also need to publicly demonstrate their support. This might involve participating in Pride and making their marketing LGBT inclusive. It would be helpful if employers advocated for LGBT rights. This can be done by lobbying the government and highlighting the benefits of LGBT inclusion for businesses and Chile.

Additionally, as workplace ignorance is a challenge, employers can promote inclusion and support local LGBT organisations simultaneously by asking LGBT groups to provide training for staff. This is particularly important for small groups who may not be able to connect with large employers otherwise.”

**Matías and Franco:** “Discrimination causes many trans people to leave education, making accessing employment difficult. When employed, trans people often lack contracts and social security, making it easy to fire people because of their gender identity. Trans people also face discrimination and harassment, but barriers to justice mean perpetrators are rarely held accountable. To support trans employees, businesses must make eradicating discrimination a core goal. This can be achieved through training, which could be conducted by a local LGBT organisation.

Employers can lobby for positive legislative change for the trans community – the influence of businesses on legislation is very strong. Additionally, businesses can use platforms like advertising to present trans people positively and combat discrimination. Accessing employment is difficult, so concrete commitments to employing trans staff would be transformative. Many multinationals make a commitment to trans inclusion that isn’t reflected in Chile. Global LGBT commitments should be implemented here, too.”

### Healthcare

**Emilio:** “In theory, trans people should be able to access inclusive healthcare, but this isn’t the case. Healthcare for LGB people is not inclusive. Apart from HIV treatment, which is state provided, no healthcare addresses LGB people’s specific needs, especially lesbians. For example, lesbians can’t access state-funded reproductive support that straight cis women can.”

**Matías and Franco:** “Access to adequate trans-specific healthcare is very limited: if a person is unemployed (as is the case for most trans people), they’ll receive the lowest level of care within the public system. Waiting lists are very long, and only 11 hospitals offer hormone therapy and gender confirmation surgery. Access to information also is a barrier – within the public system, it isn’t clear how a trans person would access such treatments.”

## LGBT INCLUSION IN THE WORKPLACE

Stonewall's [Global Workplace Equality Index](#) is the definitive benchmarking tool for global LGBT workplace equality. It's a great way to assess your organisation's progress and navigate the challenges of upholding inclusive values locally. The Global Index provides your organisation with a clear and rigorous action plan for your LGBT inclusion work across the globe.

The Index evaluates an organisation's performance across eight areas of employment policy and practice. In line with these areas, in Chile employers can work to:

1. Implement LGBT-inclusive **policies and benefits**, such as anti-discrimination and bullying and harassment policies, transitioning at work policies, and equal partner and family benefits.
2. Carry out comprehensive **all-staff training** on sexual orientation and gender identity.
3. **Engage staff** by setting up local LGBT employee network groups and developing ally programmes.
4. Empower **senior leaders** to advance LGBT inclusion within your organisation and advocate for equality.
5. Assess whether you can **monitor** sexual orientation and gender identity data in order to understand and improve the experiences of LGBT employees.
6. Evaluate your **procurement** practices to ensure LGBT inclusion forms part of the tendering process and your engagement with potential and existing suppliers.
7. Work to understand the **local context** and support **local communities** by partnering with local LGBT groups.
8. Ensure your **mobility** policies account for employees' sexual orientation and gender identity and provide staff travelling to or from Chile with adequate, LGBT-specific information.



## LEARN FROM STONEWALL'S GLOBAL DIVERSITY CHAMPIONS

### Accenture

In Chile, sexual orientation and gender identity are expressly included in Accenture's anti-discrimination policy and equal benefits are provided for same-sex partners. Accenture also has a transitioning at work policy, with guidelines for team leaders, human resources, and transitioning individuals. Accenture's policies are brought to life through all-staff training sessions on LGBT inclusion in the workplace.

Several events and activities are run to raise awareness, coinciding with key dates celebrating LGBT identities. For IDAHOBIT, Accenture has an office-wide day of reflection and education, as well as celebrating 'Pride season' for all of June and walking in the Pride parade. Intersectionality is a key part of Accenture's approach to diversity and inclusion in Chile. In October, 'Diversity Week' is celebrated in the office, which is dedicated to understanding how the different parts of people's identities make them who they are. During this week, speakers give presentations and group discussions are held on how people can work together to create a culture of equality.

Accenture partners with Fundacion Iguales, a Chilean LGBT organisation, and is a member of Pride Connection. The firm has also worked to address the systemic barriers faced by trans people by providing materials and running workshops for Escuela Amaranta, a school for trans children who have not been accepted in the formal education system.

## GET INVOLVED



### THE ANNUAL LGBT CALENDAR

**July or November/December** – Pride/Open Mind Fest [www.movilh.cl/gayparade/gay-parade](http://www.movilh.cl/gayparade/gay-parade)

**October** – Transfest, organised by OTD Chile [www.otdchile.org](http://www.otdchile.org)

**October** – Cine Movilh [www.movilh.cl/cine/el-festival](http://www.movilh.cl/cine/el-festival)

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



### FIND LGBT GROUPS AND COMMUNITIES

**Fundacion Iguales** – an organisation working towards equality of rights and non-discrimination on the grounds of sexual diversity. [www.iguales.cl](http://www.iguales.cl)

**MUMS Chile** – a national non-governmental organisation that defends LGBTIQ+ rights through political advocacy and community strengthening. [www.mums.cl](http://www.mums.cl)

**MOVILH** – a national organisation defending social, cultural, political, economic and legal rights of LGBT people. [www.movilh.cl](http://www.movilh.cl)

**OTD Chile** – a Chilean group promoting the human rights of trans and sexually diverse people. [www.otdchile.org](http://www.otdchile.org)



### NATIONAL HUMAN RIGHTS INSTITUTION

**Instituto Nacional de Derechos Humanos** – [www.indh.cl](http://www.indh.cl)

The Instituto Nacional de Derechos Humanos is the Chilean National Human Rights Institution where complaints of human rights violations on the grounds of sexual orientation and gender identity can be made.



## STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 54 ORGANISATIONS OPERATING IN CHILE.

The **Global Diversity Champions** programme gives employers the tools they need to take a strategic and structured approach to LGBT equality initiatives globally and provides a network to keep them informed of legal changes and implications for their staff wherever they are in the world. Our team of workplace advisors offer tailored one-to-one advice on how to create LGBT-inclusive workplaces globally and members gain exclusive access to our full library of resources offering step-by-step guidance on different areas of LGBT inclusion. If you would like to receive support or want to be featured as a case study in one of our Global Workplace Briefings, contact [memberships@stonewall.org.uk](mailto:memberships@stonewall.org.uk)

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