

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

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.



Population: 44+ million



Stonewall Global Diversity Champions: 28



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.

Argentina is classified as a Zone 2 country, which means sexual acts between people of the same sex are legal but no clear national employment protections exist. Two further zones exist. In Zone 1 countries, sexual acts between people of the same sex are legal and 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 14 of the Constitution (1853) protects the **right to publish ideas** without prior censorship and to associate for useful purposes.

International conventions approved by Argentine laws also generally protect the rights to **freedom of expression and association**.

There are **no LGBT-specific additions or restrictions** to the rights to freedom of expression, association and assembly.

Federal Non-Discrimination Law No. 23,592 (1988) determines civil and **criminal sanctions for limiting, restricting, obstructing or impeding** the free and full exercise of the **constitutional rights** of any person **based on discriminatory reasons**.

FAMILY AND RELATIONSHIPS

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

There are **equal ages of consent** for sexual acts regardless of gender under Articles 25 and 26 of the National Civil and Commercial Code (2015).

Same-sex marriage is legal under Federal Civil Marriage Law No. 26,618 (2010).

Articles 402 and 509 of the National Civil and Commercial Code (2015) provide for equal effects, rights and obligations within marriage for same-sex couples and different sex couples. In addition, same-sex and different-sex couples can **enter cohabitation unions**.

LGBT people have **equal rights to adopt** under the federal Civil Marriage Law No. 26,618 (2010) and Article 599 of the National Civil and Commercial Code (2015).

An **adoption existing prior to the change of legal gender can be maintained** under federal Gender Identity Law No. 26,743 (2012).

Since federal Gender Identity Law No. 26,743 (2012) came into force, **no marriage restrictions exist for trans people**.

EQUALITY AND EMPLOYMENT

Article 17 of the Labour Contract Law (1976) **prohibits** any kind of **discrimination against workers** based on sex. Even though **sexual orientation and gender identity are not expressly mentioned**, these **are considered included** within the term "sex".

The Trade Unions Law (1988) provides that **trade unions cannot establish differences for sexual reasons** and should abstain from providing a discriminatory treatment to its members. Sexual orientation or gender identity are considered included within the term 'sexual'.

The Constitution (1853) states that all inhabitants of Argentina are **equal before the law** and admissible to employment without any condition other than that of aptitude.

Every person has the right to not be discriminated in any way. This is determined under several laws, such as Article 43 of the Constitution.

If murder is motivated by the victim's sexual orientation, gender identity or expression, this will be **considered an aggravating circumstance** in the sentencing under Law No. 26,791 (2012).

Other non-labour laws regarding discrimination that could be applied to labour relationships include federal Non-Discrimination Law No. 23,592 (1988) and Fight Against AIDS Law No. 23,798 (1990).

In the Province of **Buenos Aires**, at least **one per cent of staff in the public sector** should be **trans people** under Law 14,783 (2015).

GENDER IDENTITY

Legal gender recognition exists for trans people under federal Gender Identity Law No. 26,743 (2012).

All legal documents can be changed to reflect the legal change in gender and name. The law is ambiguous in that it does not mention whether the legal gender can be changed only to 'female' or 'male' or also another gender. The Argentine Civil Registry only allows the legal gender to be **changed to female or male**.

No surgical intervention, hormone or other psychological or medical treatment is required for the legal change of gender or name.

Persons **under the age of 18** with the **assistance of the minor's lawyer** may request the respective rectifications through a legal representative or the court, as determined by Article 5 of federal Gender Identity Law No. 26,743 (2012) and Article 27 of Law No. 26,061 (2005).

IMMIGRATION

Argentine law does **not distinguish** between **same-sex** and **different-sex relationships for immigration** purposes.

A VIEW FROM ARGENTINA

Lucila Lancioni and Mariano Ruiz are Secretary of Labour Inclusion and LGBT Employment Advocate at the Federación Argentina de Lesbianas, Gays, Bisexuales y Trans (Argentinian LGBT Federation). This is a network of organisations across 24 provinces working together to promote equality and non-discrimination for LGBT people in Argentina. Mariano is also the Latin America Outreach and Communication Policy Manager at International Day Against Homophobia, Transphobia and Biphobia (IDAHOBiT).



Is there a gap between the legal realities and lived experiences for LGBT people in Argentina?

Despite a number of progressive laws, LGBT people in Argentina experience discrimination in many areas of their lives. This is the case especially within education, employment and healthcare and is gravest outside bigger cities. Often lesbian, gay and bi people are not open about their sexual orientation in order to avoid harassment. Trans people in Argentina have an average life expectancy of 42 years, and face high levels of violence, including from the police. Although medical transitioning support is supposed to be free, few hospitals provide this, and medical staff are largely untrained to do so. Many trans people are also rejected by their families and become homeless while still young. This and discrimination in employment and education often forces trans people to engage in sex work as the only way of earning money.

What needs to happen for this gap to close?

Progressive policies, programmes and initiatives are needed to achieve equality in employment, education and healthcare and to develop acceptance in society. Inclusion must be promoted, and children taught to celebrate differences. The police and medical staff need to receive LGBT-specific training to deliver their services without discrimination. Positive developments include a recently introduced district law establishing that one per cent of public servants in Buenos Aires need to be trans employees. If implemented well, this law could serve as an example for other districts. Scholarships for trans people to finish their education could also help.

What is the workplace like for LGBT people?

It is often difficult for lesbian, gay, bi and especially trans people to access employment. However, if they succeed they also experience discrimination in the workplace itself. LGBT staff often face bullying and harassment from their colleagues and aren't promoted due to their sexual orientation and gender identity. As there is no federal legislation that had been effective in prohibiting such discrimination, LGBT employees can do little about this, and are often forced to hide their sexual orientation and gender identity.

What can businesses do in Argentina to promote LGBT equality?

Internal anti-discrimination policies that specifically refer to sexual orientation and gender identity are key in creating inclusive workplaces for LGBT staff. The introduction of equal benefits is also vital. Some multinational corporations already have such policies in place, and more need to follow their lead. Visible LGBT role models can further contribute to a more inclusive workplace, as they let LGBT employees know they are not alone. Organisations can also drive change outside of the workplace. Partnering with local LGBT organisations and participating in Pride parades are two examples. Businesses can also contribute through advertising their products and services in an inclusive way and stating their commitment to LGBT equality in job adverts.

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 Argentina:

- ✓ **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 partner 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

LGBT INCLUSION IN THE WORKPLACE

Thomson Reuters

Thomson Reuters has a global network for LGBT employees and their allies. In 2010, a local chapter of the Pride at Work network was established in Buenos Aires. The Argentine chapter approached people in offices throughout Argentina and Latin America to participate in the 'It Gets Better' project. This is a movement in which employees post videos sharing their personal stories and letting LGBT people know that they are not alone. Collaboration on the video resulted in new Pride at Work chapters opening in Chile and Costa Rica. Since then, the Buenos Aires chapter has regularly collaborated with colleagues throughout Argentina and the region for various projects, such as running events for IDAHOBiT. The network also collaborates with the local chapter of the employee resource group Women at Thomson Reuters to address issues of intersectionality. Thomson Reuters in Argentina runs a series of informative legal sessions on women and LGBT issues. The sessions are open to all employees and are run by La Ley, Thomson Reuters local subsidiary and legal information provider. Thomson Reuters collaborates with employers on LGBT equality issues, such as the LGBT Chamber of Commerce and the GNETWORK tourist event in Argentina.



GET INVOLVED



THE ANNUAL LGBT CALENDAR

November – Festival Internacional de Tango Queer.
www.festivaltangoqueer.com.ar

November – Marcha de orgullo LGBTIQ / Pride Festival in Buenos Aires.
www.marchadelorgullo.org.ar

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



FIND LGBT GROUPS AND COMMUNITIES

Comunidad Homosexual Argentina – an LGBT advocacy group offering free legal advice, a mental health clinic and telephone information service. The group is also active in the prevention of HIV/AIDS. www.cha.org.ar

Movimiento Antidiscriminatorio de Liberación – a group dedicated to ending discrimination against the trans community and providing educational and legal advice. www.grupomal.blogspot.co.uk

Federación Argentina de Lesbianas, Gays, Bisexuales y Trans – a network of groups across 24 provinces working together to promote equality and non-discrimination for LGBT people in Argentina. www.falgbt.org

Sociedad de Integración Gay Lésbica Argentina – a group organising recreational events, counselling, lectures and offering HIV/AIDS consultation services. www.sigla.org.ar

Grupo Nexo – a community support organisation seeking to improve the quality of life for LGBT people, offering arts workshops, therapy and educating about health issues. www.nexo.org

PFALYG Argentina – a support group for parents and friends of LGBT people who work to support the community. www.familiaresdegays.com.ar

La Fulana – an organisation dedicated to lesbians and bi women, creating an open space to discuss feminist and queer issues in Buenos Aires and Argentina in general. www.lafulana.org.ar



STONEWALL'S GLOBAL DIVERSITY CHAMPIONS PROGRAMME WORKS WITH 28 ORGANISATIONS OPERATING IN ARGENTINA.

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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