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In past years, when governments passed laws related to sexual orientation, most companies remained neutral. But now, an increasing number of business leaders are openly supporting their lesbian, gay, bisexual, and transgender (LGBT) employees and customers. In many parts of the world, businesses are mobilizing to publicly protest laws that discriminate against LGBT people or outlaw their behavior.

Why are businesses taking this position? There are several reasons. First, they can no longer ignore dis-

crimination. New laws that would restrict the benefits or protection they could provide their own LGBT employees and customers constrain companies. Many of these laws could be enforced selectively — in extreme cases, they could be used to target or blackmail some employees — and that would create additional risk for companies.

To constituents that oppose LGBT rights on the grounds of religious principle, business leaders are often sympathetic. But they are also aware that attitudes vary among re-

ligious groups. In addition, many leaders have openly LGBT relatives and friends, or — like former BP CEO John Browne and Apple CEO Tim Cook — have publicly identified as LGBT themselves.

There is also a business case for supporting LGBT rights, not just in the U.S. and Europe, but all around the world, including in countries where LGBT activity is illegal. Companies that openly support LGBT rights are generally better places to work: Skilled candidates are more likely to accept jobs from them, many customers say they are more likely to purchase products from them, and they tend to be more innovative.

That is the core message of a new study called “Out in the World: Securing LGBT Rights in the Global Marketplace” (Center for Talent Innovation, 2016). The authors are Sylvia Ann Hewlett, codirector of the Women’s Leadership Program at the Columbia Business School and founder of New York’s Center for Talent Innovation (CTI), and Kenji Yoshino, the Chief Justice Earl Warren Professor of Constitutional Law at New York University. Both are prominent voices in this field; Hewlett has written for this magazine.

Yoshino's interest in the study arose out of concern for the state of LGBT rights around the world. He had heard stories from business leaders and employees who had come up against fierce anti-LGBT laws in African or Asian countries. Some of these countries had criminalized homosexual activity, making it punishable by imprisonment or death. Businesses generally played a conciliatory role, often creating "safe havens" within those countries, but doing so quietly. Then a turning point came in 2012: When the Ugandan government was about to pass a bill making homosexuality punishable by death, 500,000 people signed a change.org petition asking companies to use their clout to defuse or remove the bill. Barclays took a public stance, lobbying against the bill. Ultimately, the bill passed, with one change, after months of international outcry. Homosexuality was still criminalized, but the death penalty provision was removed.

Confronted with the need to comply with such laws and to operate within the associated political climate, and to preserve the safety of LGBT employees, a group of large companies sponsored the Hewlett/Yoshino study. The study set out to catalog anti-LGBT laws around the world, explore the effects on corporate identity and prosperity, and show how companies were reacting. The study's research sponsors were American Express, Bank of America, Barclays, Bloomberg, BNY Mellon, BP, Chubb, Deutsche Bank, Eli

Lilly and Company, Ernst & Young, and Out Leadership. (Our own firm, PwC, is a member of CTT's Task Force for Talent Innovation. PwC has a record of support for the LGBT community and opposition to discriminatory laws. PwC chairman Robert E. Moritz published an essay on LinkedIn on this subject, "Why Different Is Better for Business and Society," in May 2016.)

Shortly after the World Economic Forum meeting at Davos in January 2016, where the study was released, *strategy+business* caught up with report coauthor Kenji Yoshino in New York. The conversation began by recapping the study findings — particularly the link between LGBT rights and other corporate goals, including recruitment and profitability. We then talked about some of the philosophical implications of the study, including the changing role that corporations are playing in the political sphere, and profound questions of psychological identity (such as what it means to be a closeted transgender individual) that are not as far removed as they may seem from the managerial sphere.

S+B: What did you learn from this research?

YOSHINO: The project began when we realized that over 90 percent of Fortune 500 corporations promote policies favoring rights for lesbian, gay, bisexual, and transgender people, but 75 countries had laws outlawing sexual conduct between indi-

viduals of the same gender. In eight of those countries, same-gender sexual intimacy is punishable by death. What should these pro-gay firms do when they do business in these anti-gay countries?

I'm a constitutional lawyer by training, and one of my focal points is antidiscrimination laws, specifically LGBT related. So I partnered with Sylvia [Hewlett] and her group, which specializes in empirical research.

Using coding based on traffic light colors, we [categorized] three kinds of countries, and looked at cases of each in detail. The red zone includes countries with sodomy statutes or other serious LGBT-hostile laws on the books. Among these, we looked closely at India, Singapore, and Russia. The yellow zone includes countries that don't have restrictive laws, but also don't have marriage equality or antidiscrimination statutes. We looked closely at China, Hong Kong, and Turkey. The third group, our green zone, has generally pro-LGBT laws. We studied Brazil, South Africa, the U.K., and the U.S. Some of our advisors didn't think we should put the U.S. in the green category, because it still doesn't have employment nondiscrimination at the federal level, and there are still some hostile laws at the state level. But by and large, it is a green-zone country, in part because of the 2003 Supreme Court decision *Lawrence v. Texas*, which said that the right to privacy meant that sodomy laws were not constitutionally per-

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missible. And of course, in 2015, the Supreme Court handed down a decision making same-sex marriage available nationwide.

S+B: How much did the culture of a country affect the ratings?

YOSHINO: Because I am a lawyer, my immediate instinct is to use law as a proxy for everything going on in a country. But in some places the laws lag behind culture. For example, in Singapore, there are laws on the books prohibiting sodomy, but they are rarely enforced. In other places, the law can be ahead of culture. Of the jurisdictions that we studied, South Africa is the only country that has put sexual orientation nondiscrimination into its constitution. But we still hear stories about horrific practices there — for example, heterosexual men raping lesbians to try to “cure” them of their homosexuality.

Thus, in many places, you’ll get inconsistent enforcement. And as Joseph Landau of Fordham Law School wrote in the *New Republic*, this causes a ripple effect for LGBT people that is almost as pernicious as throwing people into jail. For example, in the United States before the *Lawrence* case, if a gay person

had had a child and then came out of the closet, and then there was a custody battle, the courts would often award custody to the heterosexual parent, because the gay parent was presumed to be engaged in illegal activity. In other words, the statute could have collateral effects, affecting adoption, public employment,

People feel pressure to change their sexual orientation, to become straight. So they go into conversion therapy or psychoanalysis, or, in extreme cases, they undergo electroshock, lobotomy, or castration.

Then, society evolves to the passing stage. LGBT people are tolerated as long as they pretend they

“We have observed...a maturity curve — a progression that both individuals and societies follow in their attitudes about LGBT identity.”

and many other aspects of life. Even if the law was never enforced, LGBT individuals would be aware that it could be enforced, and would continue to hide their [orientation].

S+B: It makes people vulnerable in pervasive but subtle ways.

YOSHINO: And sometimes not-so-subtle ways.

We have observed that there’s a maturity curve — a progression that both individuals and societies follow in their attitudes about LGBT identity. The earliest stage is conversion:

are not LGBT. This was the U.S. military policy from 1994 through 2011: “Don’t ask, don’t tell.”

The third phase is to cover: You downplay your identity, even if it is known to others. For example, I could be out at work officially, but still be concerned about bringing my same-sex spouse to a work function, lest I be seen as “too gay.”

The fourth stage is full inclusion. There is no felt penalty, not even a subtle one, for being openly LGBT.

We ended up taking this cultural maturity into account, as well

as the law, when assigning our red, yellow, and green categories. For example, in both Russia and the United States, 42 percent of our survey respondents said they had experienced discrimination in the workplace in the past five years. We were struck by the fact that the percentage was identical. But 80 percent of the LGBT respondents in Russia are closeted — they do not reveal this aspect of their identity to others — compared to 46 percent of the United States respondents. That suggests that antigay attitudes are more prevalent in Russia, and we scored it that way.

S+B: What does it mean to say a transgender person is in the closet?

YOSHINO: That's a more profound question than it may seem, and we struggled with how to analyze it. You could be transgender — say, born male in identity but in a female body — and before making a physical transition, you could be “passing” as a female. You would present yourself as a female to others.

Then after making the transition, you could still be passing, but in a different way. Now you would present yourself to others as a male, with no reference to your transgender identity. In our study, we group both of these cases under the moniker of passing, though some might disagree in the second case.

S+B: Why do so many countries in Africa, Asia, and the Middle East have such strong anti-LGBT laws?

Do they date back to long-standing religious tradition?

YOSHINO: Many of the anti-LGBT laws in Asia, at least, were adapted from European laws during the colonial era. Although pro-gay norms are often labeled as cultural imperialism from the West, the anti-LGBT laws that preceded them were Western exports too.

For example, both India and Singapore have antisodomy statutes captioned 377A, because they have the same provenance — a British colonial law, which the U.K. itself repealed long ago. The indigenous culture in India was much more tolerant; there are stories, for example, of two male gods raising a child together. The LGBT population is evenly distributed throughout the world, so it should not be a surprise that its themes are evident in many cultures.

S+B: Why should multinational companies lead the way in moving along the maturity curve, even in red-zone countries?

YOSHINO: We have found three business reasons. The first is the talent imperative. Seventy-two percent of our respondents who identify as allies — that is, they support pro-LGBT policies — said that they would be more likely to work for a company with the same perspective. John Browne [formerly of BP] tells a story in his book *The Glass Closet* (HarperBusiness, 2014) about an MBA career fair targeting LGBT students, where an IBM recruiter noticed that Asian women kept

picking up recruiting materials. “You can't all be lesbians,” he said to one of them. “What's going on?” She said that if the company was this committed to recruiting LGBT people, “we think we'll get a fair shake as Asians.”

There's also the war for consumers. Our report cited an estimate [from LGBT Capital, a branch of Galileo Capital Management] that the annual buying power of the global LGBT market is US\$3.7 trillion. And according to our study, more than 70 percent of LGBT individuals and more than 80 percent of their allies said they'd be more likely to buy from a pro-LGBT company. Surprisingly, this was true across our three categories — even in red-zone countries.

The third reason was innovation. We have substantiated accounts, including one from Pfizer and one from Merrill Lynch, that teams with even one LGBT member are more successful at bringing products to the LGBT market, because they understand those customers. More broadly, innovation generally suffers when people feel inhibited, as they do when they are passing or covering. We found higher percentages of people feeling free to express their views, and feeling that their views were heard and recognized, at LGBT-supported companies.

S+B: What should a company do if it's more LGBT supportive than the society around it?

YOSHINO: We think we've made our

biggest contribution here. We think there are three possible models to follow: the “when in Rome” model, the embassy model, and the advocate model.

In the first, you want to “do what the Romans do,” essentially, when the country’s laws are sufficiently draconian that you have no

internally to a workplace, even in a red-zone country, in terms of equality of treatment, benefits programs for same-sex spouses, and health insurance coverage for people who are transitioning as transgender individuals. This level of commitment earns your company a high level of commitment from your employees.

“Unlike most ethnic minorities, who tend to be segregated, LGBT people are distributed throughout society.”

choice but to comply. You have to preserve the safety of your people and to obey the law.

But there are still best practices. These include being transparent to employees about conditions in a particular country, and allowing people to opt out of an assignment there without incurring a penalty. If you’re transferring someone into a red-zone country, let them know what they’re getting into before they agree. For example, if I’m gay, I might not want to be assigned to Singapore because my husband would not be recognized there.

The embassy model follows a premise from Harvard sociologist Frank Dobbin that companies function like nation-states. A local office thus becomes a kind of embassy; on your own footprint, your firm’s pro-gay norms apply. Your office is a sanctuary against the world outside. It’s amazing how much you can do

One of our most haunting statistics came out of IBM India, where only 20 people belonged to the company’s LGBT affinity group — 20 employees in the entire country. But when the company set up a self-ID program, where people had control over who could see the information, more than 1,000 individuals flagged themselves as LGBT. This program generated enough enthusiasm that by 2015 IBM had rolled it out in 34 countries, covering 84 percent of its workforce.

We call the next model the advocate model. In this model, you’re not content just to create a safe haven for LGBT people within the footprint of the company; you push out to change the country around you. It can have a huge effect.

HSBC lit up its Hong Kong office in rainbow colors in support of the first business summit in Asia on LGBT rights. That was one of

HSBC’s largest press events ever. When the skyline of Hong Kong changes, mental horizons also expand. At Facebook, two interns came up with the rainbow filter to show solidarity for the U.S. marriage equality decision. Then 26 million people adopted these rainbow filters, and the company generated half a billion likes and comments from that. In Uganda, some companies — for example, Barclays — stopped the death penalty provision of the country’s proposed antihomosexuality bill from going into effect.

The Singapore case is also interesting. There are no constitutional free speech protections; talking about gay rights there is very different from talking about them in India or Japan. But once a year, the government allows gay-rights activists to organize in Hong Lim Park, which is the country’s Speakers’ Corner, at an event called Pink Dot. In 2015, 28,000 individuals participated in Pink Dot, and corporate sponsorship gave it the imprimatur of respectability. People can attend and feel that this is not marginalized behavior; it is mainstream behavior. This type of symbolic activism has a huge effect.

S+B: Why is all this activity happening now?

YOSHINO: We may have reached a tipping point. Unlike most ethnic minorities, who tend to be segregated and live among other people in the same groups, LGBT people are distributed throughout society. Un-

til a critical mass of them come out, their invisibility and diffuseness are huge political liabilities. Their invisibility means that it's harder for them to find one another and organize politically; they can hide in their closets rather than fighting. Their diffuseness means that they lack a supportive heritage. They're typically not born to other gay people, and by coming out, they risk being disowned by their parents and cut off from sources of affirmation.

But once a tipping point occurs, both invisibility and diffuseness become huge benefits. When the invisible make themselves visible, they are already inside — traditional forms of discriminatory gatekeeping cannot be used against the group. So when it becomes relatively safe to come out, people do so at the highest echelons of society: Anderson Cooper in the media, General Tammy Smith in the military, and Tim Cook in the corporate world, for example. Diffusion also flips from being a liability to being an asset. The families and friends of LGBT individuals no longer disown them, but become allies. Nearly all millennials have a colleague or a friend who is LGBT. Suddenly, acceptance of gay rights rises along

a curve that looks like a hockey stick. If you're a corporation, this is the time to jump on board, because you only get one chance to be a pioneer. Microsoft, for example, has permanent bragging rights as the first company to implement nondiscrimination policies for LGBT individuals. We expect similar things to happen globally.

A McDonald's ad was just released in Taiwan, about a young man and his father having coffee. The son writes on his coffee cup, "I like boys." His father gets up and walks away, and it looks like a classic scene of rejection. Then he comes back and writes on his son's cup, "I'm okay with the fact that you like boys." The commercial ends with the son in tears. This is in Taiwan, and on social media the favorables, the likes, vastly outnumber the dislikes.

S+B: Is any reconciliation possible between religious identity and LGBT identity?

YOSHINO: Yes. First, I don't think it's fair to say that LGBT rights and religious liberties are inevitably incompatible. [Retired Anglican archbishop] Desmond Tutu has been a huge proponent of LGBT rights. He

says he feels as strongly about opposing homophobia and transphobia as he did about opposing apartheid.

Second, there's a misunderstanding of religious accommodation. In the U.S., the Religious Freedom Restoration Act of 1993, which was enacted virtually unanimously, is often cited as an example. It establishes exemptions from the law on religious grounds. But those exemptions are dyadic: They are between the person of faith and the government, without third parties involved. For example, one case established that a Seventh-Day Adventist can turn down certain paid work without losing welfare benefits because the religion forbids working on the Sabbath. Or people of faith can refuse to send their kids to public school, for religious reasons.

But that's different from cases where a third party is involved, where a florist or a baker refuses to provide services for a gay wedding, for example. When you exempt an individual from restrictions on welfare payments, we all pay the cost, but the cost is evenly distributed. When a person of faith claims the right to discriminate against another individual, that's a different proposition, because a specific group —

here, LGBT individuals — bears the cost of the accommodation.

At the heart of this is the relationship between business and community. We want businesses to have some autonomy, to be able to hire or not hire at will. And indeed, employers can fire others in the U.S. for any reason — except that we carve out race, gender, and a very few other classifications under our Civil Rights Act. We've said that we don't want that type of discrimination in society. And having made that choice, where do we draw the line? If someone can refuse a gay person service, can a devout Muslim taxi driver refuse to transport a passenger because he's carrying alcohol? Most of these claims are complicity claims: People don't want to comply with a general statute that goes against their religion. We've decided, as a society, that in general we prefer human rights. As Joe Biden said, human rights should not be subject to cultural defenses.

Corporations will have a greater role to play in helping people navigate through this. It goes back to what the political philosopher Montesquieu wrote about “gentle commerce”: If you and I come from different cultures, we're more likely to empathize and understand each other if we have a trade relationship. Then, in trading with you, I have to understand what you want — to figure out your needs and wants instead of just assuming them. Otherwise, we won't be trade partners very long.

S+B: Some people talk about companies as “soulless” — which typically means that they are technocratic places, grounded in scientific management, only interested in making money, divorced from community. But the LGBT movement within companies is evoking a sensibility more closely associated with communities. It's saying that this supposedly soulless place, the corporation, comes alive when people there are encouraged to be themselves.

YOSHINO: That's exactly right. Gay individuals have brought to the workplace a sense of the value of authenticity. They need to come out of the closet to feel fully engaged. But there are a wide range of characteristics that people feel pressure to cover up at work; among them are mental or physical disability, age, veteran status, religion, and socioeconomic status. Corporations got a bad name when people felt forced to keep their differences under wraps. But now we know that workplaces are better when people can bring their differences to the table.

Several years ago, I was working with a college board of directors on these issues, and we were concerned because one-third of the extracurricular activity groups were identity politics groups: black students, gay students, religious or ethnic groups, and so on. Many companies have the same problem — they feel they've created a monster with their internal women's and gay networks, because people seem more engaged

with their subgroups than with the company as a whole.

We interviewed students about this, and one black freshman said, “I need to bond before I can bridge.” He had come from an all-black high school in a tiny Southern town, and he had no idea how to establish himself in a large Northeastern university. The black students association was the only group that could help him establish himself. They taught him to bridge into more mainstream organizations. By the time he was in his senior year, he was a superstar.

Bridging is difficult, but it's necessary. You may have to start with people in your comfort zone. But sooner or later, you'll need to increase your competency to talk to others — and others' competency to talk with you. +

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