Companies have seen the business benefits of being open-minded and supportive of LGBT rights in the workplace. But for multinational corporations that operate in jurisdictions not supportive of those rights—and in many cases hostile to LGBT individuals—it can be quite challenging for companies to extend nondiscrimination protections while also adhering to local laws and customs.

While 93 percent of Fortune 500 companies have nondiscrimination policies relating to sexual orientation, approximately 75 countries still criminalize same-sex sexual conduct, according to data referenced in a new study by the Center for Talent Innovation (CTI). The study, “Out in the World: Securing LGBT Rights in the Global Marketplace,” reveals talent and consumer market pressures for advancing global LGBT equality and shows LGBT-supportive companies how to foster an inclusive and safe environment for employees in anti-LGBT geographies, according to its authors.

“LGBT professionals who work for companies that make them feel safe from discrimination are more likely to be engaged and bring their authentic selves to work,” said CTI founder and CEO Sylvia Ann Hewlett. “When employers create an inclusive environment, they enjoy a competitive edge in their ability to recruit top talent, unleash innovative potential and secure the loyalty of new market segments.”

The 10-market global study of 1,964 LGBT professionals and 10,242 non-LGBT professionals was co-authored by Hewlett and legal scholar Kenji Yoshino, the Chief Justice Earl Warren Professor of Constitutional Law at New York University. The study found that while LGBT individuals continue to face considerable discrimination due to their identity, the business case for companies to advocate for gay rights is compelling.

The advancement of gay rights worldwide follows a maturity curve, which the study’s authors said describes the demands that societies and organizations make of LGBT individuals. From least mature to fully mature, the curve spans three weakening demands for conformity: the demand to convert, the demand to pass and the demand to cover.

According to Yoshino and Hewlett, the demand to cover is the demand to become heterosexual. The demand to pass is the demand to remain in the closet and differs from conversion because it is about hiding one’s status, not changing it. The demand to cover is the demand to “tone down” one’s sexual orientation after one has come out of the closet and differs from passing because it is about muting an acknowledged identity. At the end of the spectrum is a mature society, one which no longer makes these demands.

“Societies and organizations are increasingly awakening to the moral and market costs of asking LGBT individuals to cover, pass or convert,” Yoshino said. “Only when LGBT individuals feel free to live as openly as their straight or cisgendered colleagues can we say that LGBT equality has been achieved.”

Yoshino speaks from experience, and said the study reflects his own journey through the maturity curve as a gay, Japanese American. “This is a passion of mine, personally and professionally,” he said, adding that he is now married with two children, but had he not embraced his true self, “it would not have been a happy ending.”

Yoshino recalled an incident from when he started teaching at Yale Law School in 1998, where he was encouraged to cover and not embrace his true self. He said a colleague told him he would have a better chance at tenure if he was “a homosexual professional” rather than “a professional homosexual.”

“To be a homosexual professional was to be a professor of constitutional law who happened to be gay,” Yoshino said. “To be a professional homosexual was to be a gay professor who...
made gay rights his work. It was okay for me to be openly gay, but I shouldn't flaunt it.”

In his dissent from the U.S. Supreme Court’s majority ruling in 2003 in the Roy Scouts of America case a constitutional right to exclude gay members, Justice John Paul Stevens based part of his reasoning on an article written by Yoshino, then a 32-year-old law professor. Yoshino’s argument was that coerced assimilation is discrimination because it forces a person to hide his identity. “His openness is the sole and sufficient justification for his ostracism … a constitutionally prescribed symbol of inferiority,” Stevens wrote.

Yoshino, too, said she had a personal stake in the study. “My son is gay and now married. He worked in Singapore and southern states in the U.S., and I’ve seen through his eyes the tremendous burdens of living in these types of societies.”

Many jurisdictions still have laws or cultural norms that preclude a critical mass of LGBT people from coming out, said Yoshino and Hewlett. Applying the maturity curve framework, the study grouped markets into three categories, from hostile to friendly: the Red Zone, countries with LGBT-hostile laws (India, Russia and Singapore); the Yellow Zone, countries with LGBT-unfriendly laws (China, Hong Kong and Turkey); and the Green Zone, countries with LGBT-friendly laws (Brazil, South Africa, the U.K. and the U.S.).

The study revealed that companies in every market impose conversion, passing and covering demands on their employees, and those demands have harmful effects on the people doing the most work in diversity and inclusion were Fortune 500 companies, more so than governments, NGOs and academic institutions,” Yoshino said. “We’re a private sector has led the momentum.”

In addition to doing what’s right, the private sector realizes what the study reveals: Companies with a pro-LGBT stance have a greater ability to recruit talent and attract consumers, even outside of the LGBT pool. A majority of LGBT individuals and allies of the LGBT community are more likely to make purchases from a company that supports LGBT equality, and LGBT-supportive policies in the workplace reduce discrimination and increase job satisfaction, retention and productivity among LGBT employees.

According to the study, 72 percent of respondents who self-identify as LGBT allies said they are more likely to accept a job at a company that supports equal opportunities for LGBT employees. Meanwhile, 82 percent of all respondents and 71 percent of LGBT individuals said they are more likely to purchase a good or service from such a company. And 84 percent of LGBT employees at supportive companies say they work for their employer, compared to 68 percent at unsupportive companies.

Given that LGBT buying power is estimated at $3.7 trillion globally, being gay-friendly is critical for economic growth. Noted economist Lee Badgett, considered an expert on economics of sexual orientation, said that “countries that come closer to full equality for LGBT people have higher levels of GDP per capita.”

So what can global companies operating in LGBT-unfriendly and hostile jurisdictions do to provide a more supportive and inclusive environment for LGBT employees? The report provides three models that tailor to different legal and cultural environments as strategies for engagement with anti-LGBT jurisdictions: the “When in Rome” model; the “Embassy” model; and the “Advocate” model.

When employing the “When in Rome” model, the companies adhere to the norms and local laws of the jurisdiction. The “Embassy” model allows companies to enforce pro-LGBT policies within their own walls, but does not push for change in the wider community. Finally, companies utilizing the “Advocate” model actively seek to effect change even outside the office. “One company can use all three models at once depending on the jurisdictions in which they are located,” said the authors. “For example, adopting an ‘Embassy’ stance in one country is being welcomed, but culturally hostile, to LGBT individuals, while simultaneously pushing more publicly for LGBT rights in another location where the law lags behind cultural acceptance.”

While data suggests that greater economic development might make countries more likely to respect the rights of LGBT people, Hewlett said in these societies, deeply held prejudices rooted in the emphasis on the private sector to do something very courageous.”

In India last spring, despite fierce opposition by business leaders within the state, Republican Gov. Mike Pence signed into law the Religious Freedom Restoration Act, which allowed businesses to use an owner’s faith as a reason to refuse service to customers, including same-sex married couples.

Following that action, various CEOs, including from DiversityInc Top 50 companies Anthem, Eli Lilly and Company and Cummins – three of Indiana’s largest corporations – called on the Republican leadership to enact legislation to prevent discrimination based upon sexual orientation or gender identity. Cumulus, Indiana-based Cummins, the world’s largest diesel engine maker, at the time said of the law: “Cummins believes it’s bad for business and bad for Indiana. We are a global company in a competitive environment and it could hinder our ability to remain a top talent region.”

In response to the pressure, a bill intended to provide LGBT protections passed within days.

And in Georgia in March 2016, Gov. Nathan Deal announced he planned to veto a proposed “anti-LGBT” bill he had intended to sign, following pressure from various U.S. corporations, including Marriott International (No. 9), IBM, Time Warner (No. 57) and The Walt Disney Company (No. 38), which threatened to take their business elsewhere. “Gay is not just a ‘nice to have,’” Yoshino said. “It’s actually keeping people alive, making workplaces safer.”

Added Hewlett: “And if the stakes are big in Indiana, they’re even more so in Moscow and Mumbai.”

Study co-author Kenji Yoshino, the Chief Justice Earl Warren Professor of Constitutional Law at New York University Law, left, and Center for Talent Innovation founder and CEO Sylvia Ann Hewlett.