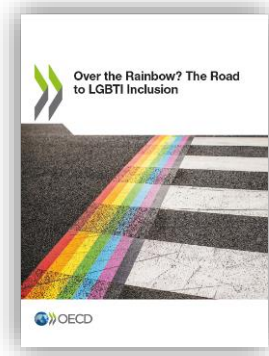


Ensuring that LGBTI people – i.e. lesbians, gay men, bisexuals, transgender and intersex individuals – can live as who they are without being discriminated against or attacked should concern us all. Discrimination against LGBTI people remains pervasive. It harms the LGBTI population, but also the wider society. It lowers investment in human capital due to bullying at school, as well as poorer returns on educational investment in the labour market. It reduces economic output by excluding or under-valuing LGBTI talents in the labour market and impairing their mental and physical health, hence their productivity. The report **Over the Rainbow? The Road to LGBTI Inclusion** provides a comprehensive overview of the extent to which laws in OECD countries ensure equal treatment of LGBTI people, and of the complementary policies that could help foster LGBTI inclusion.



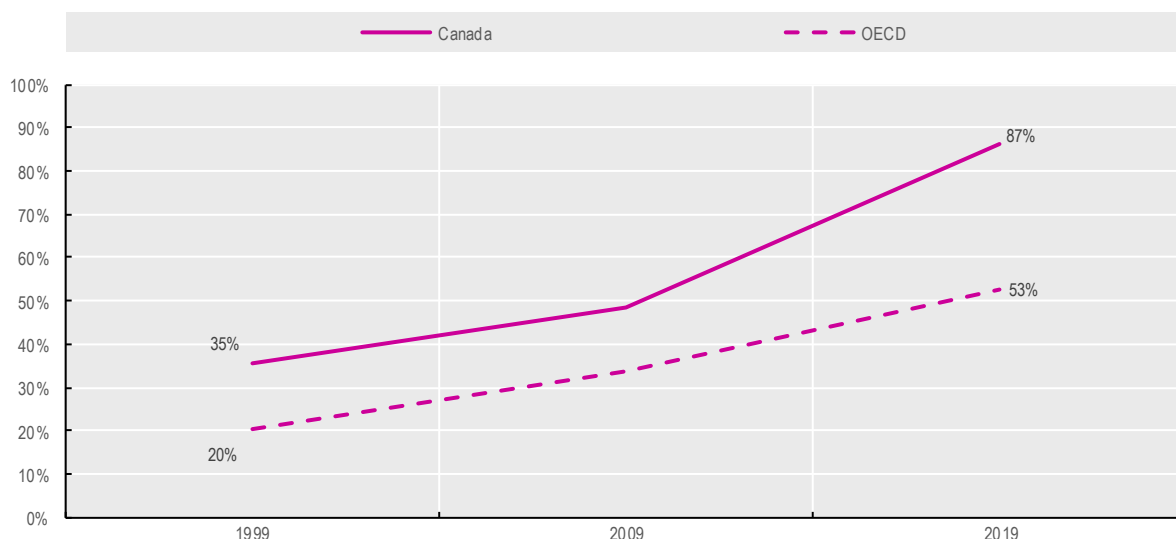
Legal LGBTI inclusivity in Canada

Levels and trends in legal LGBTI inclusivity

Legal LGBTI inclusivity is defined as the share of laws that are in force among those critical to ensure equal treatment of LGBTI people. Canada is the OECD country with the strongest legal protections for sexual and gender minorities. It is characterised by an above-average performance regarding both its level of legal LGBTI-inclusivity as of 2019 and its progress in legal LGBTI-inclusivity between 1999 and 2019 (Figure 1).

Figure 1: Legal inclusion of LGBTI people in Canada has consistently been above the OECD average and this relative advantage has kept growing over the past decade

Evolution of legal LGBTI inclusivity between 1999 and 2019 in Canada and OECD-wide



Legal LGBTI inclusivity refers to the percentage of LGBTI-inclusive laws that have been passed, among a basic set of laws defined based on international human rights standards.

Source: OECD (2020), *Over the Rainbow? The Road to LGBTI Inclusion*, Chapter 3. [Download data from [Statlink](#)]

The increase in legal LGBTI inclusivity in Canada has been particularly strong over the past decade (Figure 1). As of 2019, Canada performs better than the OECD average concerning laws protecting LGBTI individuals against discrimination, violence, as well as persecution abroad (Figure 2). Explicit protection based on sexual orientation has existed in Canada for a long time. In 1977, Quebec became the first jurisdiction in the world to prohibit discrimination based on sexual orientation. In 2017, the *Canadian Human Rights Act* and *Penal Code* were amended in order to also explicitly protect transgender and intersex individuals against discrimination, hate crime and hate speech. Persecution based on the aforementioned grounds is also recognised as a valid reason for granting asylum.

Canada's achievements in addressing the unique challenges faced by lesbians, gay men and bisexual individuals have also been extraordinary (Figure 2). The *Civil Marriage Act* of 2005 opened equal access to civil marriage to couples of the same sex across Canada. However, already as early as 2002, several subnational courts had ruled that restricting access to civil marriage to opposite-sex couples constituted discrimination. On top of being granted full legal recognition of their partnerships, Canadian same-sex couples are also treated on an equal footing relative to different-sex couples concerning access to adoption and assisted reproductive technology. Finally, Canada is one of three OECD countries that ban conversion therapy on minors in some of their jurisdictions. Significant progress has also been made towards depathologising being transgender (Figure 2). In 2014, the *Canadian Psychiatric Association* adopted the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* maintained by the *American Psychiatric Association* from which "gender identity disorder" was dropped. Moreover, several jurisdictions no longer condition the change of gender marker in the civil registry on medical requirements.

How could Canada further improve legal LGBTI inclusivity?

On top of allowing a non-binary gender option for transgender and intersex individuals in the civil registry of several provinces and territories, Canada introduced in June 2019 an 'X' option for 'Another Gender' on its passports, citizenship certificates and permanent resident cards (Figure 2). These options notably alleviate the pressure to categorise an intersex baby as either female or male and, hence, reduce the perceived need for unconsented medically unnecessary sex-normalising interventions on intersex minors. However, Canada could go a step further by gathering support among all stakeholders (intersex people, parents, medical practitioners, etc.) for guidelines or laws banning such interventions.

Policies to foster LGBTI inclusion in Canada, beyond LGBTI-inclusive laws

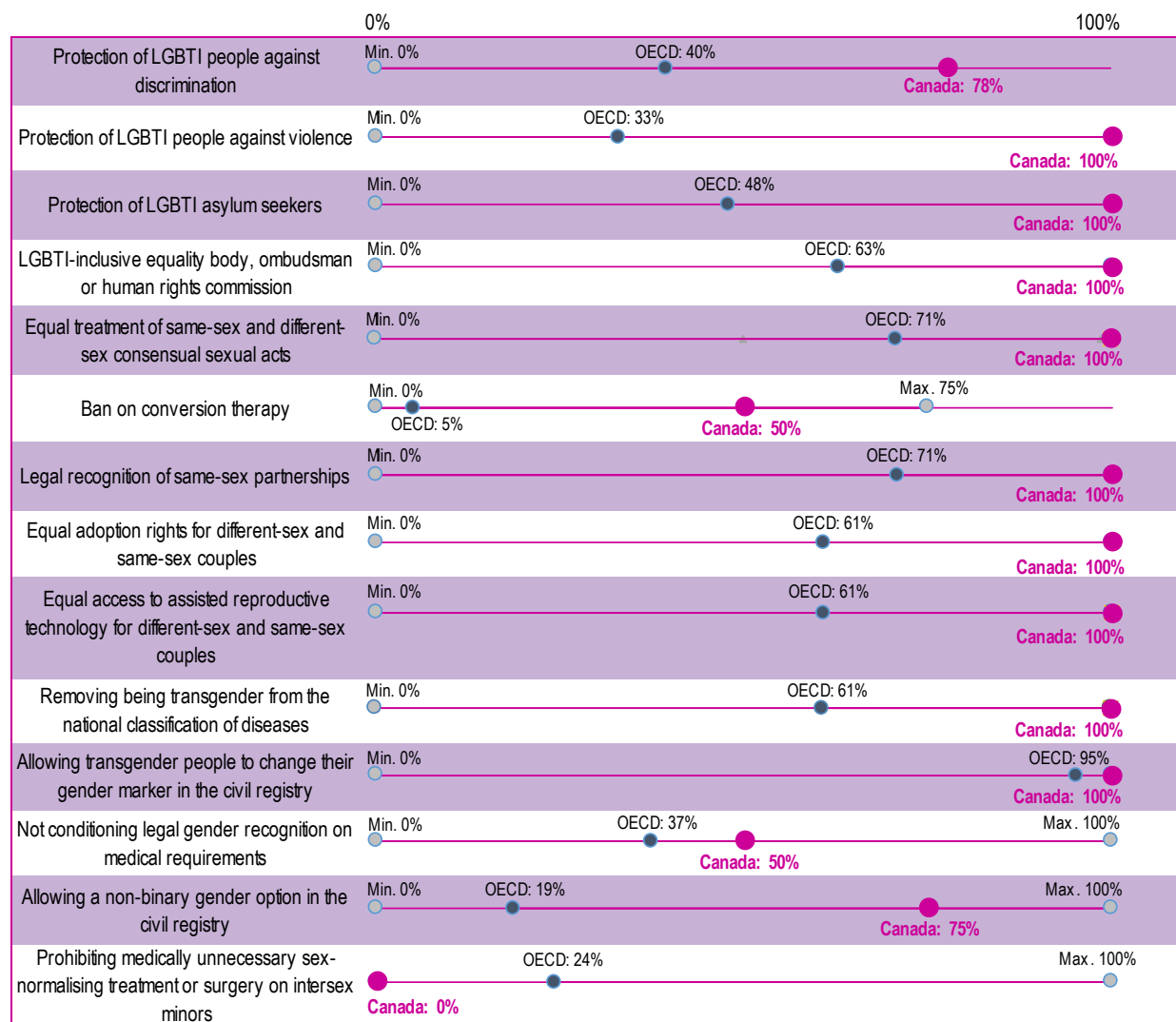
LGBTI-inclusive laws should come along significant efforts to make LGBTI individuals better represented and visible in national statistics. Without appropriate data collection, policymakers aiming to improve LGBTI inclusion will continue to do so with little if any relevant information. As of 2018, Canada is one of 15 OECD countries that include or have included a question on self-identification as heterosexual, homosexual, or bisexual in at least one of nationally representative survey. Moreover, it is making significant progress towards collecting information on gender identity – although not on intersex status.

It would also be important that Canada be or remain active in the following complementary policy areas that are viewed as key by ongoing national actions plans aimed at strengthening LGBTI inclusion:

Policy #1	Policy #2	Policy #3
Enforcing LGBTI-inclusive antidiscrimination, hate crime/hate speech and asylum laws, e.g. through training police officers on properly dealing with hate crimes targeting LGBTI people	Fostering a culture of equal treatment in education, employment and healthcare, beyond enforcing laws prohibiting discrimination in these fields, e.g. through a whole-school approach to tackle LGBTI-phobic bullying	Creating and maintaining popular support for LGBTI inclusion, e.g. through well-designed awareness-raising activities among the general public.

Figure 2: How Canada compares

Legal LGBTI inclusivity as of 30 June 2019 in Canada and OECD-wide, by component



Note: Figure 2 presents the components that serve to compute the average level of legal LGBTI inclusivity reported in Figure 1 as of 30 June 2019. The component “Protection of LGBTI people’s civil liberties” is missing since it shows no cross-country variation: no legal provision in OECD countries explicitly restricts the rights to freedom of expression, peaceful assembly, and association of sexual and gender minorities. Legal LGBTI-inclusivity attached to each component can vary between 0% and 100%. For instance, a level of legal LGBTI inclusivity in Canada equal to 78% regarding the protection of LGBTI people against discrimination means that seven of the nine antidiscrimination provisions critical to protect LGBTI people are in force in Canada as of 2019. “Min.” refers to the score of the bottom-performing OECD country(ies) while “Max.” refers to the score of the top-performing OECD country(ies). These values are specified except when they coincide with the score of Canada. Source: OECD (2020), *Over the Rainbow? The Road to LGBTI Inclusion*, Chapter 3. [Download data from [Statlink](#)]

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