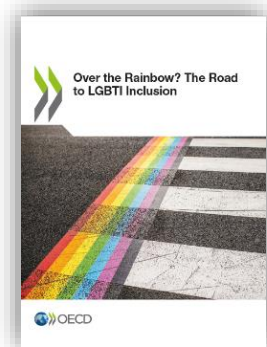


Ensuring that LGBTI people – i.e. lesbians, gay men, bisexuals, transgender and intersex individuals – can live as who they are without being discriminated against or attacked should concern us all. Discrimination against LGBTI people remains pervasive. It harms the LGBTI population, but also the wider 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.



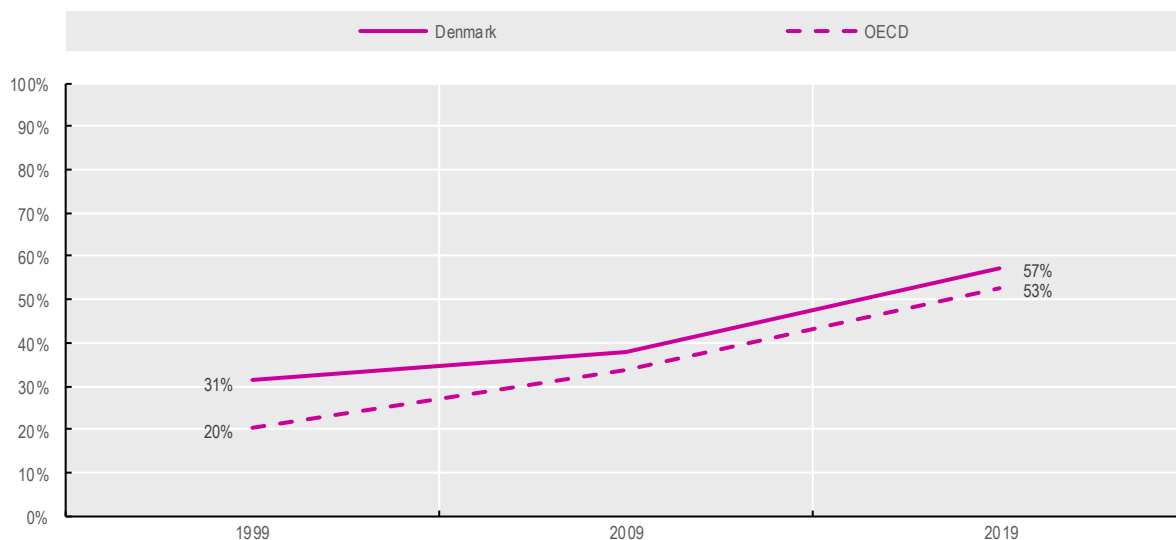
Legal LGBTI inclusivity in Denmark

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. Denmark is one of three OECD countries that provide significant legal protections to sexual and gender minorities, but where LGBTI-inclusive laws have been passed since 1999 at a slower pace relative to the OECD average. These countries are characterised by an above-average performance regarding their level of legal LGBTI-inclusivity as of 2019, but a below-average performance regarding their progress in legal LGBTI inclusivity between 1999 and 2019 (Figure 1).

Figure 1: Legal inclusion of LGBTI people in Denmark has consistently been above the OECD average but this relative advantage has been shrinking over the past two decades

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



Note: 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 [Stalink](#)]

As of 2019, Denmark performs better than the OECD average concerning laws addressing the unique challenges faced by same-sex couples (Figure 2). In 1989, Denmark became the first country worldwide to allow same-sex couples to register their partnership and grant them many of the pecuniary rights to which different-sex married couples were entitled. In 2012, the *Act on Registered Partnerships* was repealed and replaced by a gender-neutral marriage law defining marriage as “between two persons of different sex or between two persons of the same sex”. On top of being granted full legal recognition of their partnerships, Danish same-sex couples are also treated on an equal footing concerning access to adoption and assisted reproductive technology.

Denmark’s achievements in addressing barriers to the inclusion of transgender and intersex individuals more specifically have also been extraordinary (Figure 2). Denmark is one of five OECD countries that have fully depathologised being transgender: the change of gender marker is grounded on self-determination since 2014, while being transgender is removed from the *National Board of Health’s* list of mental illnesses since 2017. Moreover, significant progress has been made towards protecting intersex minors. *Executive Order no. 834 of 27/06/2014* bans cosmetic medical treatments under the age of 18, while the *Danish Health Authority* has been active since 2017 in gathering support among stakeholders for guidelines banning unconsented medically unnecessary sex-normalising interventions on intersex minors.

However, progress has been more modest concerning laws protecting LGBTI individuals against discrimination and persecution abroad (Figure 2).

How could Denmark further improve legal LGBTI inclusivity?

Discrimination explicitly based on sexual orientation is prohibited in access to goods and services since 1987, and in employment since 1996. Moreover, the *Board of Equal Treatment* has been dealing with complaints on discrimination based on sexual orientation since 2008. However, gender identity is not explicitly protected by the Danish antidiscrimination legislation and equality body. Moreover, the regulatory framework does not explicitly protect LGBTI asylum seekers (Figure 2). Therefore, further improving legal LGBTI inclusivity in Denmark could entail: (i) including gender identity and sex characteristics among the grounds explicitly protected by the *Board of Equal Treatment*; and (ii) explicitly recognising persecution based on sexual orientation, gender identity and sex characteristics as a valid reason for granting asylum.

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

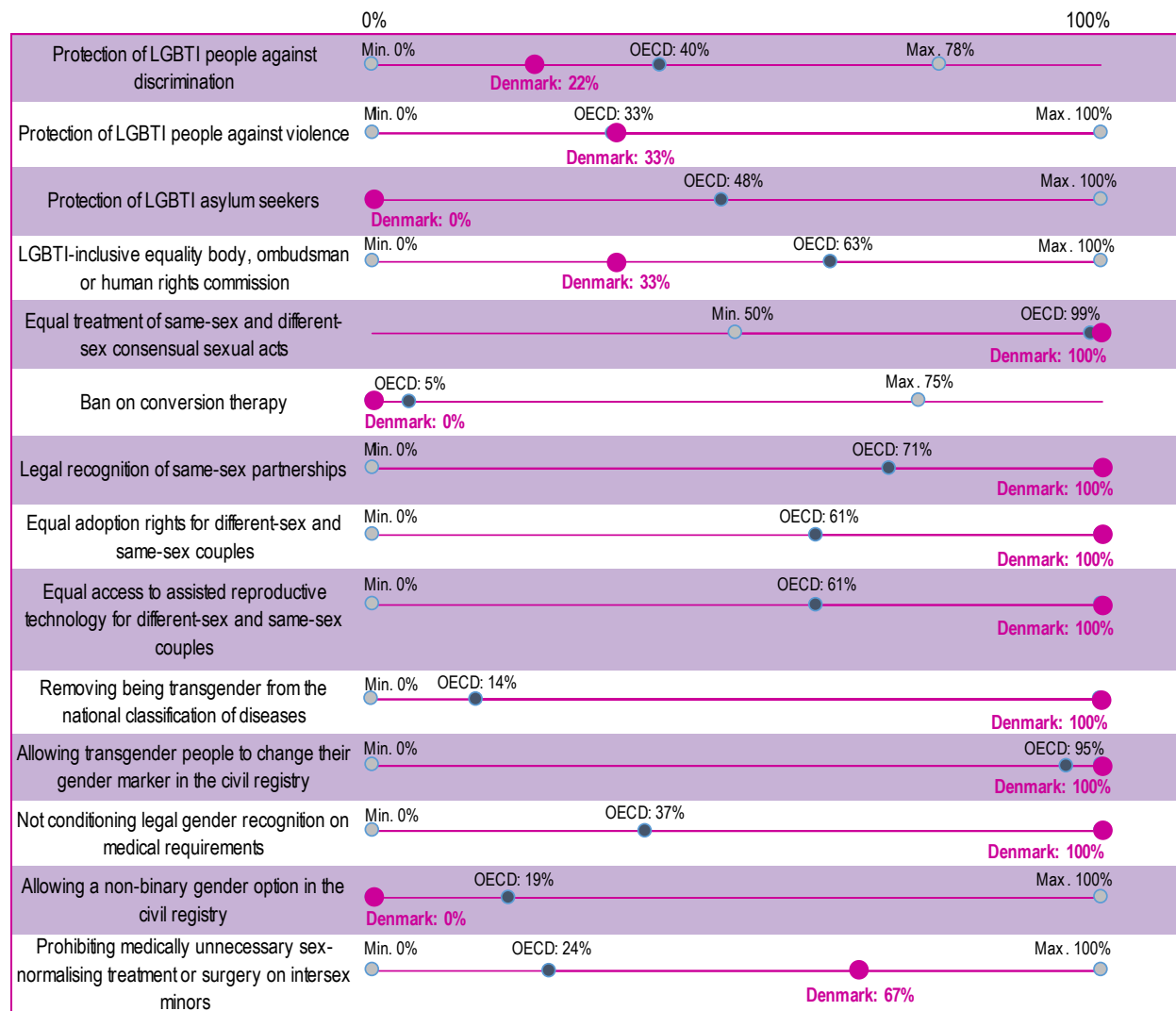
LGBTI-inclusive laws should come along significant efforts to make LGBTI individuals better represented and visible in national statistics. Without appropriate data collection, policymakers aiming to improve LGBTI inclusion will continue to do so with little if any relevant information. Denmark is a leader in this field. As of 2018, Denmark is one of 15 OECD countries that include or have included a question on self-identification as heterosexual, homosexual, or bisexual, and one of only three OECD countries that collect information on gender identity in at least one nationally representative survey.

It would also be important that Denmark 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 Denmark compares

Legal LGBTI inclusivity as of 30 June 2019 in Denmark 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 Denmark equal to 22% regarding the protection of LGBTI people against discrimination means that two of the nine antidiscrimination provisions critical to protect LGBTI people are in force in Denmark 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 Denmark. Source: OECD (2020), *Over the Rainbow? The Road to LGBTI Inclusion*, Chapter 3. [Download data from [Statlink](#)]

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