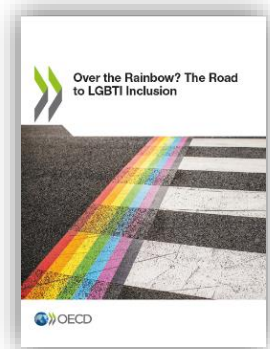


Ensuring that LGBTI people – i.e. lesbians, gay men, bisexuals, transgender and intersex individuals – can live as who they are without being discriminated against or attacked should concern us all. Discrimination against LGBTI people remains pervasive. It harms the LGBTI population, but also the wider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



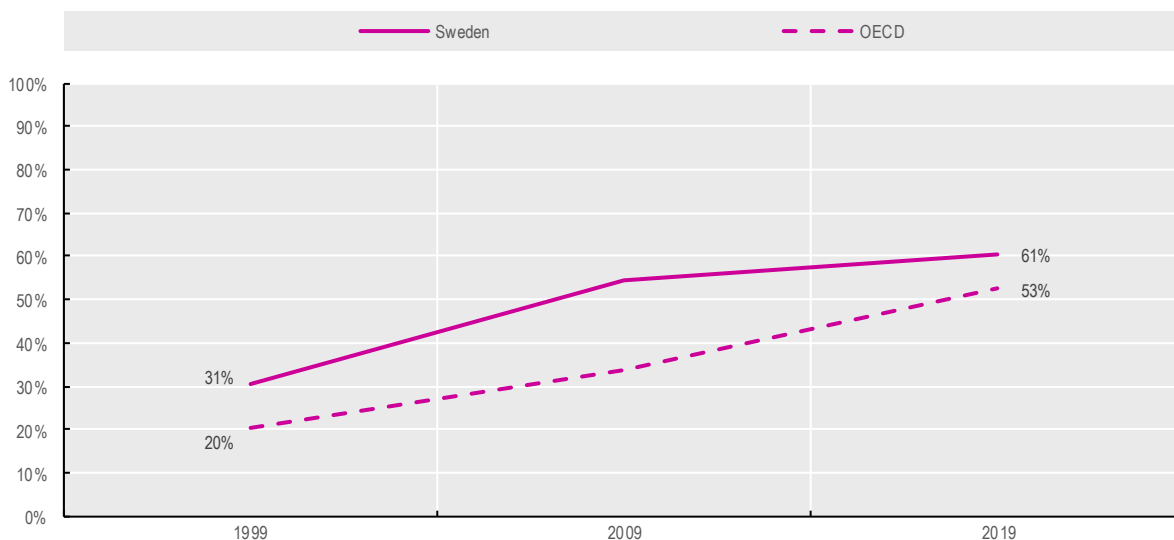
## Legal LGBTI inclusivity in Sweden

### 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. Sweden is one of three OECD countries that provide significant legal protections to sexual and gender minorities, but where, overall, 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 Sweden has consistently been above the OECD average over the past two decades**

Evolution of legal LGBTI inclusivity between 1999 and 2019 in Sweden 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, Sweden performs better than the OECD average concerning laws protecting LGBTI individuals against discrimination and violence (Figure 2). Discrimination explicitly based on sexual orientation is prohibited since 1987 by the *Penal Code*, and since 2011 by the *Swedish Constitution*. Moreover, since 2009, discrimination explicitly based on gender identity is outlawed in a broad range of fields (employment, education, the provision of and access to goods and services including housing, etc.). The *Equality Ombudsman* has been in charge of enforcing these provisions ever since. Additionally, the *Penal Code* explicitly considers hate crime and hate speech motivated by bias against a person's sexual orientation or gender identity as an aggravating circumstance.

Sweden's achievements in addressing the unique challenges faced by same-sex couples have also been extraordinary (Figure 2). As early as 1995, same-sex couples were allowed to register their partnership and entitled to many of the pecuniary rights granted to different-sex married couples. In 2009, the *Act on Registered Partnerships* was repealed and replaced by a gender-neutral marriage law. On top of being granted full legal recognition of their partnerships, Swedish same-sex couples are also treated on an equal footing relative to different-sex couples concerning access to adoption and assisted reproductive technology.

### **How could Sweden further improve legal LGBTI inclusivity?**

Although Swedish transgender individuals are allowed to change their gender marker in the civil registry, this legal gender recognition is still conditioned on a psychiatric diagnosis (Figure 2). Yet, the trend OECD-wide is to de-pathologise this process: in the past ten years, 15 OECD countries have abolished medical requirements initially attached to legal gender recognition. Moreover, Sweden is not one of the eight OECD countries that allow for a non-binary gender option in the civil registry to ensure recognition of transgender and/or intersex individuals who do not self-identify as either female or male. By alleviating the pressure to assign an intersex baby into one of these two categories, such legal provision would also help reduce the perceived need for unconsented medically unnecessary sex-normalising interventions on intersex minors (Figure 2). Therefore, further improving legal LGBTI inclusivity in Sweden could entail: (i) basing the change of gender marker for transgender people on self-determination; and (ii) granting transgender and intersex individuals access to a non-binary gender option in the civil registry.

### **Policies to foster LGBTI inclusion in Sweden, beyond LGBTI-inclusive laws**

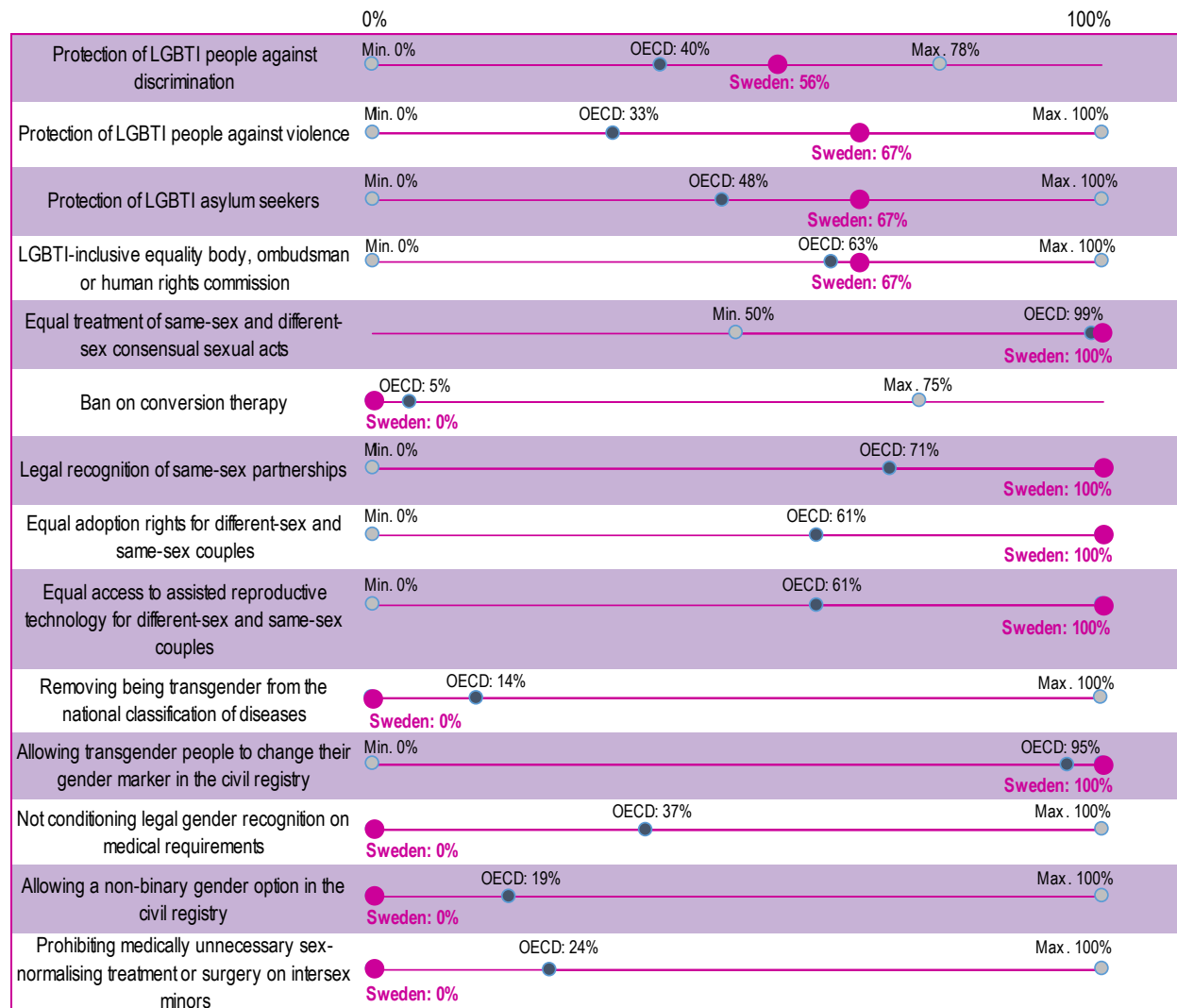
LGBTI-inclusive laws should come along significant efforts to make LGBTI individuals better represented and visible in national statistics. Without appropriate data collection, policymakers aiming to improve LGBTI inclusion will continue to do so with little if any relevant information. As of 2018, Sweden 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 nationally representative survey. But it does not yet collect information on the share of transgender and intersex people among the adult population.

It would also be important that Sweden 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:

<b>Policy #1</b>	<b>Policy #2</b>	<b>Policy #3</b>
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 Sweden compares**

Legal LGBTI inclusivity as of 30 June 2019 in Sweden 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 Sweden equal to 56% regarding the protection of LGBTI people against discrimination means that five of the nine antidiscrimination provisions critical to protect LGBTI people are in force in Sweden 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 Sweden. Source: OECD (2020), *Over the Rainbow? The Road to LGBTI Inclusion*, Chapter 3. [Download data from [Statlink](#)]

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