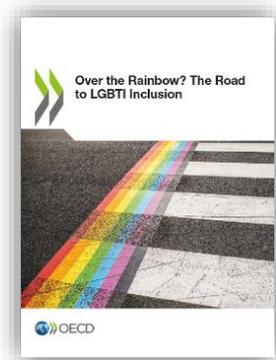


Ensuring that LGBTI people – i.e. lesbians, gay men, bisexuals, transgender and intersex individuals – can live as who they are without being discriminated against or attacked should concern us all. Discrimination against LGBTI people remains pervasive. It harms the LGBTI population, but also the wider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



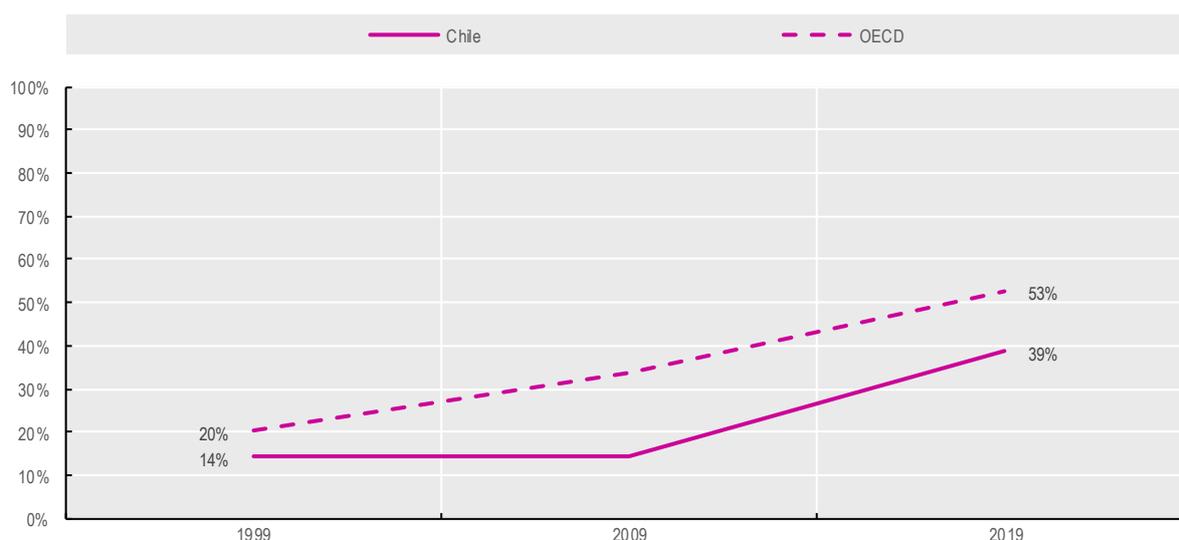
Legal LGBTI inclusivity in Chile

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. Chile is one of 14 countries in the OECD where this share is still moderate. These countries are characterised by a below-average performance regarding both their level of legal LGBTI-inclusivity as of 2019 and their progress in legal LGBTI-inclusivity between 1999 and 2019 (Figure 1).

Figure 1: Legal inclusion of LGBTI people in Chile has started improving only recently, but at a sustained pace

Evolution of legal LGBTI inclusivity between 1999 and 2019 in Chile 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](#)]



Legal LGBTI inclusivity in Chile started improving only recently, but at a sustained pace (Figure 1). As of 2019, Chile performs better than the OECD average concerning laws addressing the unique challenges faced by transgender and intersex individuals (Figure 2). In 2018, following *Law 21.120 recognising and protecting the right to gender identity*, Chile became one of 15 OECD countries that do not condition the change of gender marker for transgender individuals on medical requirements. Moreover, in 2015, the Chilean Ministry of Health issued a circular urging medical practitioners to postpone medically unnecessary sex-normalising treatment or surgery on intersex minors until they can provide informed consent.

Chile is also doing as well as the OECD average concerning the protection of LGBTI people against discrimination and violence (Figure 2). Since 2012, discrimination and hate crime explicitly based on sexual orientation and gender identity are prohibited. These legal provisions were adopted as a response to the murder of Daniel Zamudio, a 25-year old man who was beaten and tortured after his attackers learnt he was gay.

However, the progress made by Chile has been more modest regarding legal provisions addressing barriers to the inclusion of same-sex couples more specifically (Figure 2).

How could Chile further improve legal LGBTI inclusivity?

Chile is the only OECD country where the *Penal Code* establishes a higher age of consent for consensual homosexual acts (18) than for consensual heterosexual acts (14). Moreover, although Chile passed a civil union law in 2015 which grants same-sex couples almost the same pecuniary rights as married couples, same-sex partners are not given equal access to second-parent and joint adoption, or to assisted reproductive technology. Finally, although discrimination and hate crime explicitly based on sexual orientation and gender identity are prohibited, no national equality body, ombudsman or human rights commission is in charge of enforcing these legal protections. This situation stands in sharp contrast with that of most OECD countries (Figure 2). Therefore, further improving legal LGBTI inclusivity in Chile could entail: (i) equalising the ages of consent for consensual homosexual and heterosexual acts, and treating same-sex couples on an equal footing relative to different-sex couples concerning access to civil marriage, adoption and assisted reproductive technology; and (ii) creating a national equality body, ombudsman or human rights commission in charge of enforcing legal protections of LGBTI individuals.

Policies to foster LGBTI inclusion in Chile, 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. Chile is a leader in this field. As of 2018, Chile 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 Chile 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 Chile compares

Legal LGBTI inclusivity as of 30 June 2019 in Chile 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 Chile equal to 44% regarding the protection of LGBTI people against discrimination means that four of the nine antidiscrimination provisions critical to protect LGBTI people are in force in Chile 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 Chile. Source: OECD (2020), *Over the Rainbow? The Road to LGBTI Inclusion*, Chapter 3. [Download data from [Statlink](#)]

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