

# Sexual orientation, gender identity and intersex status

## NGO Coalition Fact Sheet 18

### Violence and harassment (page 81)

Same-sex attracted young people, transgender people and intersex (LGBTI) people report high levels of verbal and physical abuse. 61 per cent of same-sex attracted young people report experiencing verbal homophobic abuse, and 18 per cent report physical homophobic abuse.

Transgender young people experience significantly higher rates of both non-physical and physical abuse. In a 2015 survey of intersex Australians, 66 per cent of participants had experienced discrimination on the basis of their intersex variation from strangers.

There are no specific government programs designed to address this and national funding for programs to address violence faced by LGBTI students in schools lapsed in June 2017.

**Australia should reduce the high levels of violence faced by LGBTI Australians by implementing activities to reduce the bullying and harassment of LGBTI people, particularly youth.**

### Discrimination and vilification

(page 81)

Landmark federal anti-discrimination laws were introduced in Australia in 2013 prohibiting discrimination on the basis of sexual orientation, gender identity and intersex status. However, LGBTI people continue to face high levels of discrimination in practice and permanent exemptions allow discrimination against LGBTI people in areas including employment, schools, sport and the delivery of services (except the delivery of aged care services).

Most notably, there are exemptions for religious organisations. The attribute of “intersex status” is now protected in the ACT, Tasmania and South Australia, but other states and territories either incorrectly conflate intersex with gender identity or do not contain any protections against discrimination on this ground.

**Australia should introduce comprehensive and strengthened legal protections from discrimination and vilification consistent with international human rights standards.**

### Forced medical intervention

(pages 82)

Surgeries and other medical interventions are performed on infants and children with intersex variations without their informed consent or evidence of necessity. These are invasive and often irreversible procedures.

A Senate Committee’s report recommended that irreversible medical treatment, especially surgery, only be performed on people who are unable to give consent if there is a health-related need to undertake that surgery, and that need cannot be as effectively met at a later date.

**Australia should:**

- **Adopt the Australian Senate’s recommendations to ban unnecessary medical interventions on people with intersex variations.**
- **Develop and enact legislation prohibiting non-medically necessary sterilisation, genital normalising and hormonal interventions on people with intersex variations without their prior, fully informed and free consent.**

### Classification of sex/gender

(page 82)

To change gender classification, most state and territory laws require surgical intervention, a person to be over 18, a person to be unmarried and only allow access to ‘male’ and ‘female’ classifications.

The Commonwealth, Australian Capital Territory, New South Wales and South Australia provide limited recognition for sex and gender outside the categories of male and female.

**Australia should:**

- **Recognise self-affirmed sex/gender without requiring medical treatment, a person to be unmarried or a person to be 18 years of age, including classifications other than male and female.**
- **As a long-term objective, work to remove sex/gender classifications from birth certificates and other identification documents, in consultation with the affected communities disproportionately impacted by such requirements.**

**LGBTI parenting** (page 83)

In the Northern Territory, same-sex couples are currently unable to adopt children and discrimination against LGBTI people in the provision of assisted reproductive technology (ART) services is permitted under the law.

There is no law governing ART in the Northern Territory. In Western Australia access to reproductive technologies including altruistic surrogacy is limited to couples of the opposite sex, unable to conceive due to medical reasons.

**Australia should remove discrimination in laws governing family formation and parenting.**

**SOURCES:**

[i] Anti-Discrimination Act NT contains a statutory exception for the provision of assisted reproductive services.

**Freedom to marry and equal relationship recognition**

(page 83)

Despite overwhelming public support for marriage equality, Australia only recognises marriages between 'a man and a woman'.

Relationship recognition and civil union/partnership schemes provide couples with alternative legal recognition in the absence of marriage in all states and territories except Western Australia and the Northern Territory.

**Australia should legislate for marriage equality and ensure relationship recognition is available across all states and territories.**