

# Situation of LGBTI children in Belgium

Shadow Report Rights of the Child



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## Introduction

The convention on the rights of the child protects the rights of all children under 18. If we look at the situation of LGBTI children we see a lot of progress and work that has been done the last few decades.

According to the most recent SCV (Social Cultural Changes survey: <http://www.statistiekvlaanderen.be/survey-scv-survey>) in Flanders we see that LGBs are widely accepted. 91 percent of the population in Flanders thinks that LGB people should be able to live their lives the way they want. 75 percent of the Flemish population approves same-sex marriage. Although these numbers are very positive there are still some negative attitudes to be found. One out of 5 people in Flanders finds it problematic if their child would have a same-sex relationship.

In 2018, Belgium implemented a new transgender law that recognizes gender identity instead of sex. Transgender persons can change their official gender marker without undergoing medical procedures.

According to the ILGA-EUROPE rainbow index Belgium is in the top 5 of countries in Europe regarding the legal situation and policy concerning the human rights of lesbian, gay, bisexual, trans and intersex (LGBTI) people in Europe ([https://www.ilga-europe.org/sites/default/files/Attachments/rainbow\\_europe\\_map\\_2017.pdf](https://www.ilga-europe.org/sites/default/files/Attachments/rainbow_europe_map_2017.pdf))

LGBTI people are widely accepted on the surface but there are still negative attitudes towards LGBTI people. 31 percent of the population thinks it's offensive when 2 men kiss in public (11 percent thinks it's offensive when a man and woman kiss in public) (Social Cultural Changes survey: <http://www.statistiekvlaanderen.be/survey-scv-survey>)

These attitudes also affect LGBTI children who can be extra vulnerable for exclusion, bullying and not being heard.

If we look at the convention on the rights of the child (the convention) we see several articles where LGBTI children can appeal to:

The convention states that no child should endure discrimination, (art. 2) that every child has a right to life, survival and development (art. 6). It also prohibits all forms of traditional practices, including, genital mutilation (art 24/3), ensures all children have access to health services and in particular primary health (art. 24) and encourages to have respect for the views of the child (art. 12).

## **Lack of acknowledgement of transgender children**

Transgender persons have a gender identity which is different to the gender assigned at birth and who wish to portray their gender identity in a different way to the gender assigned at birth. It is a umbrella term covering a wide range of gender variance. It does not mean someone has a problem or a disorder. When the gender identity does correspond with the biological sex, we talk about cisgender: for example, you will feel a man in a man's body.

- Diagnosing transgender children by a psychiatrist.
  - o On the January 3 of 2018, a new law came into effect replacing the 2007 law concerning transsexuality. No medical requirements are needed in order to change your legal gender. ([http://igvm-iefh.belgium.be/sites/default/files/109-voornaam\\_en\\_geslachtsregistratie\\_aanpassen.pdf](http://igvm-iefh.belgium.be/sites/default/files/109-voornaam_en_geslachtsregistratie_aanpassen.pdf)) In order to change your legal gender, an adult person has to file an application with a statement that their legal gender does not correspond with their gender identity. No surgery or other medical or psychological treatment or opinion is required.  
Transgender minors age 16-17 however, still need to have an certificate from a psychologist who testifies that the minor is sound of mind and can make their own decisions. This goes against the demedicalization of transgender rights and against article 12 of the convention to respect the views of the child. Youth psychiatrist Karlien Dhondt testified at an enactment meeting on 19th may 2017.  
*It is not necessary to build in an extra threshold for 16 and 17 year old transgender youth. This goes against the vision of WPATH.*  
According to Karlien Dhondt 16 and 17 year old transgender persons should have the same procedure as adults.  
(<http://www.dekamer.be/doc/FLWB/pdf/54/2403/54K2403004.pdf>)

## **Lack of policy and protection for intersex children.**

Intersex people are born with sex characteristics that are not exclusively male or female. In our society, they face human rights violations and discrimination in all fields of life. At this moment there is no policy concerning the rights of intersex infants in Belgium. The lack of policy translates into several problems:

- Gender registration on birth certificate and lack of knowledge
  - o In Belgium every child needs to be registered (day of birth, hour, location of birth and gender registration.) In case the gender is unclear, the parent(s) can provide that information within 3 months after the birth with medical justification. ([http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=nl&la=N&table\\_name=wet&cn=2007051555](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2007051555))
  - o If the gender is not clear at birth a doctor can run tests and provide the parents with a preliminary gender indicator. Many doctors don't have knowledge about intersex or about what the right course of action is. Parents are often pressured to make urgent, life-changing decisions on behalf of their child, without having a full understanding of the long-term consequences for their children of the decisions made about their bodies during their infancy and early childhood

- No legislation or guidelines to protect intersex children's right to bodily integrity and the right to be informed and included.
  - o Invasive and irreversible sex-"normalising" surgery and hormonal treatments are carried out on intersex children without their free and informed consent and even when there is no medical need for such treatment.
  - o Medical institutes act of their own accord and do what they see fit. There are no guidelines at hand for them to follow. Healthcare should be multidisciplinary, holistic and patient-centred. Psychosocial support should be made available both to intersex people and their families.
  - o Children are not informed or included in the decision making process. Often children are not informed about the fact they were born intersex and that they had "normalizing" surgeries.

(Promoting the human rights of and eliminating discrimination against intersex people. De Bruyn)

### **Lack of protection and knowledge in the education system.**

Schools are still very heteronormative places because LGBTI people are often not visible. LGBTI students often hide their sexual orientation and/or gender identity out of fear of negative response from other students and/or teachers.

(Vincke & Stevens, 1999b)

The lack of visibility leads to lack of inclusion of LGBTI issues in schools.

- Lack of knowledge among teachers to address LGBTI issues and to teach about LGBTI topics.
  - o A survey among teachers (primary and secondary school teachers) showed a very positive attitude towards LGBTI topics among most teachers. But at the same time they think it is a very difficult topic to address in the classroom. Positive attitudes towards LGBTI topics do not automatically lead to inclusive education if teachers feel they don't have enough knowledge and skills to address the issues. (UNIA Diversiteitsbarometer onderwijs 2018)
  - o In teacher colleges there is no obligated training how upcoming teachers can talk about gender en sexual diversity. Therefore teachers don't feel secure to address these topics.

A student who filled out the Flemish LGBT school climate survey made this statement:

*"Our school board is not very open to talk about LGBT issues. Our school principal is not homophobic but he doesn't want to talk about. He avoids the subject at all costs." (LGBTI school climate survey Flanders)*

- Lack of protection of LGBTI students in schools
  - o A survey among LGBTI students showed that 41 percent of LGBTI students felt unsafe in school because of their sexual orientation, 27 percent felt unsafe because of their gender expression. One out of four participants skipped one or several school days during the last month. (LGBTI school climate survey Flanders)

- 83.5 percent of the LGBT students heard homophobic remarks regularly.

### **Recommendations:**

#### **Lack of acknowledgement of transgender children.**

- Remove the extra hurdle for 16 and 17 year old to have a certificate from a psychiatrist who determines if the minor has the ability to make their own decision.

#### **Lack of policy and protection for intersex children.**

- prohibit medically unnecessary sex-“normalising” surgery, sterilisation and other treatments done on intersex children without their informed consent
- ensure that, except in cases where the life of the child is at immediate risk, any treatment that seeks to alter the sex characteristics of the child, including their gonads, genitals or internal sex organs, is deferred until such time as the child is able to participate in the decision, based on the right to self-determination and on the principle of free and informed consent
- provide all intersex people with healthcare offered by a specialised, multidisciplinary team taking a holistic and patient-centred approach and comprising not only of medical professionals but also other relevant professionals such as psychologists, social workers and ethicists, and based on guidelines developed together with such professionals and in consultation with intersex organisations
- ensure that laws and practices governing the registration of births, in particular in regard to the recording of a new-born’s sex, duly respect the right to private life by allowing sufficient flexibility to deal with the situation of intersex children without forcing parents or medical professionals to reveal a child’s intersex status unnecessarily
- consider making the registration of sex on birth certificates and other identity documents optional for everyone

(Promoting the human rights of and eliminating discrimination against intersex people. De Bruyn)

#### **Lack of protection and knowledge in the education system.**

- Teacher colleges should have mandatory trainings about how to include gender and sexual diversity topics in their jobs.
- Primary and secondary schools should provide mandatory classes to inform students about LGBT issues and make the subject visible.
- School inspection should evaluate the mandatory classes about LGBT issues and their positive impact on the school environment.
- The departments of education should support NGOs who specialize in LGBT issues on education and provide support for schools.