Sexual Orientation and Gender Identity

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**INTRODUCTION**

*Sexual Orientation and Gender Identity* is Volume 378 in the ‘Issues in Society’ series of educational resource books. The aim of this series is to offer current, diverse information about important issues in our world, from an Australian perspective.

**KEY ISSUES IN THIS TOPIC**

Sexual orientation and gender identity are separate, distinct parts of people’s overall identity. Equality and freedom from discrimination are human rights belonging to all people, however, lesbian, gay, bisexual, trans, gender diverse and intersex (LGBTI) people experience harassment and hostility in many areas of everyday life. Under recently enacted Australian law it is illegal to discriminate against a person on the basis of sexual orientation, gender identity and intersex status. Same-sex couples are now also protected from discrimination under the definition of ‘marital or relationship status’.

This book explores issues involving sexual orientation, gender diversity and intersex status; and explains what equality means for people who are often subjected to misunderstanding and homophobia.

**SOURCES OF INFORMATION**

Titles in the ‘Issues in Society’ series are individual resource books which provide an overview on a specific subject comprised of facts and opinions.

The information in this resource book is not from any single author, publication or organisation. The unique value of the ‘Issues in Society’ series lies in its diversity of content and perspectives.

The content comes from a wide variety of sources and includes:

- Newspaper reports and opinion pieces
- Website fact sheets
- Magazine and journal articles
- Statistics and surveys
- Government reports
- Literature from special interest groups

**CRITICAL EVALUATION**

As the information reproduced in this book is from a number of different sources, readers should always be aware of the origin of the text and whether or not the source is likely to be expressing a particular bias or agenda.

It is hoped that, as you read about the many aspects of the issues explored in this book, you will critically evaluate the information presented. In some cases, it is important that you decide whether you are being presented with facts or opinions. Does the writer give a biased or an unbiased report? If an opinion is being expressed, do you agree with the writer?

**EXPLORING ISSUES**

The ‘Exploring issues’ section at the back of this book features a range of ready-to-use worksheets relating to the articles and issues raised in this book. The activities and exercises in these worksheets are suitable for use by students at middle secondary school level and beyond.

**FURTHER RESEARCH**

This title offers a useful starting point for those who need convenient access to information about the issues involved. However, it is only a starting point. The ‘Web links’ section at the back of this book contains a list of useful websites which you can access for more reading on the topic.
CHAPTER 1

Sexual orientation, gender diversity and intersex

UNDERSTANDING GENDER

Education, training and support group Gender Spectrum explains

WHAT IS GENDER?

For many people, the terms ‘gender’ and ‘sex’ are used interchangeably, and thus incorrectly. This idea has become so common, particularly in western societies, that it is rarely questioned. We are born, assigned a sex, and sent out into the world. For many people, this is cause for little, if any dissonance. Yet biological sex and gender are different; gender is not inherently nor solely connected to one’s physical anatomy.

Biological gender (sex) includes physical attributes such as external genitalia, sex chromosomes, gonads, sex hormones, and internal reproductive structures. At birth, it is used to assign sex, that is, to identify individuals as male or female. Gender on the other hand is far more complicated. It is the complex interrelationship between an individual’s sex (gender biology), one’s internal sense of self as male, female, both or neither (gender identity) as well as one’s outward presentations and behaviours (gender expression) related to that perception. Together, the intersection of these three dimensions produces one’s authentic sense of gender, both in how people experience their own gender as well as how others perceive it.

THE GENDER SPECTRUM

Western culture has come to view gender as a binary concept, with two rigidly fixed options: male or female, both grounded in a person’s physical anatomy. When a child is born, a quick glance between the legs determines the gender label that the child will carry for life. But even if gender is to be restricted to basic biology, a binary concept still fails to capture the rich variation that exists. Rather than just two distinct boxes, biological gender occurs across a continuum of possibilities. This spectrum of anatomical variations by itself should be enough to disregard the simplistic notions of a binary gender system.

But beyond anatomy, there are multiple domains defining gender. In turn, these domains can be independently characterised across a range of possibilities. Instead of the static, binary model produced through a solely physical understanding of gender, a far richer tapestry of biology, gender expression, and gender identity intersect in a multidimensional array of possibilities. Quite simply, the gender spectrum represents a more nuanced, and ultimately truly authentic model of human gender.

FALLING INTO LINE

Gender is all around us. Like water surrounding creatures in the sea, we are often unaware of its ever-present nature. Gender is actually taught to us from the moment we are born. Gender expectations and messages bombard us constantly. Upbringing, culture, peers, schools, community, media, and religion are some of the
many influences that shape our understanding of this core aspect of self. How you learned and interacted with
gender as a young child directly influences how you view
the world today. Gendered interactions between parent
and child begin as soon as the sex of the baby is known.
In short, many aspects of gender are socially constructed,
particularly with regard to gender expression.

Like other social constructs, gender is closely
monitored and reinforced by society. Practically every-
thing in society is assigned a gender – toys, colours,
clothes and behaviours are just some of the more
obvious examples. Through a combination of social
conditioning and personal preference, by age three most
children prefer activities and exhibit behaviours typically
associated with their sex. Accepted social gender roles
and expectations are so entrenched in our culture that
most people cannot imagine any other way. As a result,
individuals fitting neatly into these expectations rarely
if ever question what gender really means. They have
never had to, because the system has worked for them.

ABOUT GENDER EXPANSIVENESS

‘Gender expansive’ is an umbrella term used for
individuals that broaden commonly held definitions of
gender, including its expression, associated identities,
and/or other perceived gender norms, in one or more
aspects of their life. These individuals expand the
definition of gender through their own identity and/or
expression. Some individuals do not identify with
being either male or female; others identify as a blend
of both, while still others identify with a gender, but
express their gender in ways that differ from stereotypical
presentations. A gender expansive person’s preferences
and self-expression may fall outside commonly under-
stood gender norms within their own culture; or they
may be aligned with them even as one’s internal gender
identity doesn’t align with the sex assigned at birth.

This diversity of gender is a normal part of the human
experience, across cultures and throughout history. Non-binary gender diversity exists all over the world,
documented by countless historians and anthropologists.
Examples of individuals living comfortably outside of
typical male/female expectations and/or identities are
found in every region of the globe. The calalai, and calalai
of Indonesia, two-spirit Native Americans, and the hijra
of India all represent more complex understandings of
gender that really does not account for their own experience.

In a society where this crucial aspect of self has been so
narrowly defined and rigidly enforced, individuals who
exist outside its norms face innumerable challenges.
Even those who vary only slightly from the norm can
become targets of disapproval. Yet this does not have to
be the case forever. Through a thoughtful consideration
of the uniqueness and validity of every person’s
identity, gender deeply influences every part of one’s life.

CONCLUSION

Perhaps the most fundamental aspect of a person’s
identity, gender deeply influences every aspect of one’s life.
In a society where this crucial aspect of self has been so
narrowly defined and rigidly enforced, individuals who
exist outside its norms face innumerable challenges.
Even those who vary only slightly from the norm can
become targets of disapproval. Yet this does not have to
be the case forever. Through a thoughtful consideration
of the uniqueness and validity of every person’s
experiences of self, we can develop greater acceptance
for all. Not only will this create greater inclusion for
individuals who challenge the norms of gender, it will
actually create space for all individuals to more fully
explore and celebrate who they are.
LGBT rights: frequently asked questions

What does ‘LGBT’ mean?

LGBT stands for ‘lesbian, gay, bisexual and transgender.’ While these terms have increasing global resonance, in different cultures other terms may be used to describe people who form same-sex relationships and those who exhibit non-binary gender identities (such as hijra, meti, lala, skesana, motsoale, mithli, kuchu, kawein, travesty, muxe, fa'afafine, fakaleiti, hamjensgara and Two-Spirit).

In a human rights context, lesbian, gay, bisexual and transgender people face both common and distinct challenges. Intersex people (those born with atypical sex characteristics) suffer many of the same kinds of human rights violations as LGBT people, as indicated below.

What is ‘sexual orientation’?

Sexual orientation refers to a person’s physical, romantic and/or emotional attraction towards other people. Everyone has a sexual orientation, which is integral to a person’s identity. Gay men and lesbian women are attracted to individuals of the same sex as themselves. Heterosexual people (sometimes known as ‘straight’) are attracted to individuals of a different sex from themselves. Bisexual people may be attracted to individuals of the same or different sex. Sexual orientation is not related to gender identity.

What is ‘gender identity’?

Gender identity reflects a deeply felt and experienced sense of one’s own gender. A person’s gender identity is typically consistent with the sex assigned to them at birth. For transgender people, there is an inconsistency between their sense of their own gender and the sex they were assigned at birth. In some cases, their appearance and mannerisms and other outward characteristics may conflict with society’s expectations of gender-normative behaviour.

What does transgender mean?

Transgender (sometimes shortened to ‘trans’) is an umbrella term used to describe a wide range of identities – including transsexual people, cross-dressers (sometimes referred to as ‘transvestites’), people who identify as third gender, and others whose appearance and characteristics are perceived as gender atypical. Transwomen identify as women but were classified as males when they were born. Transmen identify as men but were classified female when they were born. Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not.

What is intersex?

An intersex person is born with sexual anatomy, reproductive organs, and/or chromosome patterns that do not fit the typical definition of male or female. This may be apparent at birth or become so later in life. An intersex person may identify as male or female or as neither. Intersex status is not about sexual orientation or gender identity: intersex people experience the same range of sexual orientations and gender identities as non-intersex people.

What are homophobia and transphobia?

Homophobia is an irrational fear of, hatred or aversion towards lesbian, gay or bisexual people; transphobia denotes an irrational fear, hatred or aversion towards transgender people. Because the term homophobia is widely understood, it is often used in an all-encompassing way to refer to fear, hatred and aversion towards LGBT people in general.

What kind of human rights violations are LGBT people exposed to?

LGBT people of all ages and in all regions of the world suffer from violations of their human rights. They are physically attacked, kidnapped, raped and murdered. In more than a third of the world’s countries, people may be arrested and jailed (and in at least five countries executed) for engaging in private, consensual, same-sex relationships. States often fail to adequately protect LGBT people from discriminatory treatment in the private sphere, including in the workplace, housing and healthcare. LGBT children and adolescents face bullying in school and may be thrown out of their homes by their parents, forced into psychiatric institutions or forced to marry. Transgender people are often denied identity papers that reflect their preferred gender, without which they cannot work, travel, open a bank account or access services. Intersex children may be subjected to surgical and other interventions without their or often their parents’ informed consent, and as adults are also vulnerable to violence and discrimination.
Is there any reason to criminalise homosexuality?
No. Criminalising private sexual relationships between consenting adults, whether the relationships are same-sex or different-sex, is a violation of the right to privacy. Laws criminalising consensual same-sex relationships are also discriminatory, and where enforced, violate rights to freedom from arbitrary arrest and detention. At least 76 countries have laws in effect that criminalise private, consensual same-sex relationships, and in at least five countries conviction may carry the death penalty. In addition to violating basic rights, this criminalisation serves to legitimise hostile attitudes towards LGBT people, feeding violence and discrimination. It also hampers efforts to halt the spread of HIV by deterring LGBT people from coming forward for testing and treatment for fear of revealing criminal activity.

Are there LGBT people only in Western countries?
No. LGBT people exist everywhere, in all countries, among all ethnic groups, at all socioeconomic levels and in all communities. Claims that same-sex attraction is a Western practice are false. However, many of the criminal laws used today to punish LGBT people are Western in origin. In most cases, they were imposed on the countries concerned in the 19th Century by the colonial powers of the day.

Have LGBT people always existed?
Yes. LGBT people have always been a part of our communities. There are examples from every locality and time-period, from prehistoric rock paintings in South Africa and Egypt to ancient Indian medical texts and early Ottoman literature. Many societies have traditionally been open towards LGBT people, including several Asian societies that have traditionally recognised a third gender.

Is it possible to change a person’s sexual orientation and gender identity?
No. A person’s sexual orientation and/or gender identity cannot be changed. What must change are the negative social attitudes that stigmatise LGBT people and contribute to violence and discrimination against them. Attempts to change someone’s sexual orientation often involve human rights violations and can cause severe trauma. Examples include forced psychiatric therapies intended to ‘cure’ (sic) individuals of their same-sex attraction, as well as the so-called ‘corrective’ rape of lesbians perpetrated with the declared aim of ‘turning them straight’.

Does being around LGBT people or having access to information on homosexuality endanger the wellbeing of children?
No. Learning about or spending time with people who are LGBT does not influence the sexual orientation or gender identity of minors nor can it harm their wellbeing. Rather, it is vital that all youth have access to age-appropriate sexuality education to ensure that they have healthy, respectful physical relationships and can protect themselves from sexually transmitted infections. Denial of this kind of information contributes to stigma and can cause young LGBT people to feel isolated, depressed, forcing some to drop out of school and contributing to higher rates of suicide.

Are gay, lesbian, bisexual or transgender people dangerous to children?
No. There is no link between homosexuality and child abuse of any kind. LGBT people all over the world can be good parents, teachers and role models for young people. Portraying LGBT people as ‘paedophiles’ or dangerous to children is wholly inaccurate, offensive and a distraction from the need for serious and appropriate measures to protect all children, including those coming to terms with their sexual orientation and gender identity.

Does international human rights law apply to LGBT people?
Yes, it applies to every person. International human rights law establishes legal obligations on States to make sure that everyone, without distinction, can enjoy their human rights. A person’s sexual orientation and gender identity is a status, like race, sex, colour or religion. United Nations human rights experts have confirmed that international law prohibits discrimination based on sexual orientation or gender identity.

Can depriving LGBT people of their human rights be justified on grounds of religion, culture or tradition?
No. Human rights are universal: every human being is entitled to the same rights, no matter who they are or where they live. While history, culture and religion are contextually important, all States, regardless of their political, economic and cultural systems, have a legal duty to promote and protect the human rights of all.

INCLUSIVE LANGUAGE GUIDE
RESPECTING PEOPLE OF INTERSEX, TRANS AND GENDER DIVERSE EXPERIENCE
A health information sheet from the National LGBTI Health Alliance

INTRODUCTION
What is inclusive language and why should we use it?
Language is inclusive when we use words in ways that demonstrate our respect for how people describe their own genders, bodies and relationships. It is important to show this respect even when we are describing people who are not present.

Researchers have found that how we are described by others has an enormous impact on our health and wellbeing, as well as on how likely we are to seek health care when necessary. Inclusive language improves the health of our families and communities.

Inclusive language is about:
• Welcoming all people to participate in and contribute to our families, schools, workplaces, communities and services
• Giving all people the opportunity to make responsible health choices
• Giving everyone a fair go.

SOME BASIC TERMS
You might not be aware that you have already met intersex people, and trans and non-binary gender Australians, as they often look just like anyone else. Intersex Australians, and trans and non-binary gender people, come from all walks of life. They are our teachers, neighbours, family members and friends. They come from all religions and ethnicities. They may identify as any sexuality or prefer no sexuality label.

What is intersex and who are intersex people?
People are born with many different kinds of bodies. Although intersex people are often confused with trans people, the term intersex refers to a diversity of physical characteristics. Most intersex people identify simply as women or men. Intersex is an umbrella term that describes people who have natural variations that differ from conventional ideas about ‘female’ or ‘male’ bodies. These natural variations may include genital, chromosomal and a range of other physical characteristics.

How we are described by others has an enormous impact on our health and wellbeing.

In Australia and abroad, intersex is the term most widely preferred by such people. Although intersex people may use a variety of terms to describe themselves, it is generally considered rude for others to describe intersex people as ‘hermaphrodites’ or as having ‘disorders of sex development’.

What is gender diversity and who are gender diverse people?
Australia is fortunate to have gender diversity that includes people who identify as agender (having no gender), as bigender (both a woman and a man) or as non-binary (neither woman nor man). Some non-binary people identify as genderqueer or as having shifting or fluid genders. Some Aboriginal and Torres Strait Islander peoples use the term sistergirl (sometimes Yimpininni in the Tiwi Islands) to describe male-assigned people who live partly or fully as women. In some regions, sistergirls have unique societal roles.

What is trans and who are trans people?
The term ‘trans’ means ‘across from’. In some societies, people choose their own gender when they come of age and more than two genders are recognised. For example, the Bugis society of Sulawesi, Indonesia recognises five distinct genders. In societies that recognise more than two genders, people often use a variety of culturally and linguistically specific terms instead of ‘trans’.

Currently in Australia, people are classified at birth as female or male. Female-classified children are raised as girls. Male-classified children are raised as boys. A female-classified person who identifies as a boy or man might describe himself as a trans man or simply as a man. Similarly, a woman classified as male might describe herself as a trans woman or simply as a woman. Some trans people identify trans as their gender. We use ‘trans’ in this document as a collective term to describe these diverse life experiences. The term trans (often written as trans*) is also sometimes used as an umbrella term for anyone whose gender characteristics differ from their society’s expectations. It is generally considered rude to assume that someone identifies as ‘trans’ based on their history or to call someone ‘a trans’, ‘a transgender’ or ‘tranny’.

What is misgendering?
Misgendering is a term for describing or addressing someone
using language that does not match how that person identifies their own gender or body. Using inclusive language means not misgendering people.

**What is a pronoun and what do pronouns have to do with gender?**

A noun is a word we use to describe a person, place, thing or idea. A pronoun is a word that we use instead of a noun, such as when we say ‘you’ instead of using someone’s name. Some pronouns imply someone’s gender, such as when we describe someone as ‘she’ or ‘he’.

**How do we know which pronouns to use for intersex people, trans people and gender diverse people?**

Most but not all intersex people and trans people who identify as women prefer being described as ‘she’. Most but not all intersex people and trans people who identify as men prefer to be described as ‘he’. Some people who identify as women or men may prefer to be described using only their first name instead of a gendered pronoun. We can ask people directly how they wish to be described. We can respect the dignity of each individual by respecting that person’s wishes regarding use or non-use of pronouns. Ask privately whenever possible to reduce discomfort.

**Why can’t we just avoid using pronouns for intersex people and trans people?**

Intersex and trans people who identify as women or men usually notice and feel excluded when people avoid pronouns or use gender neutral language that does not recognise their gender. Using inclusive language means calling an intersex or trans woman ‘she’ and ‘the woman’ instead of calling her ‘the person’, ‘he’, ‘it’ or avoiding pronouns.

**We can respect people’s genders regardless of their voices or bodies.**

**Which pronouns should we use for people with non-binary genders?**

People with non-binary genders often prefer non-binary pronouns such as ‘they’. Some people with non-binary genders prefer to be described as ‘zie’. Zie (pronounced zee) is an English pronoun used instead of ‘she’ or ‘he’ by some people who don’t identify as women or men. When ‘zie’ is used, ‘hir’ (pronounced like the word ‘here’) is used instead of ‘her’ or ‘his’. Using these words in a sentence, we would say “zie likes to ride hir bicycle to the library”.

Some people with non-binary genders prefer to have ‘zie’ and ‘hir’ used interchangeably to signal that they do not fit as either women or men. Other people prefer to be described using only their first name. Using someone’s first name instead of a pronoun, we would say “Terry cycles to Terry’s corner grocer”.

**What is pronoun cueing?**

Pronoun cueing means using words and actions to send a ‘cue’ about someone’s gender. Respectful pronoun cueing helps to make our communities and services more inclusive. Let’s say we are talking to a co-worker about a trans woman who was classified as ‘male’ and who is often mistaken for a man due to her deep voice and her appearance. Using respectful pronoun cueing, we would say ‘she was in the office today’ or ‘this woman is here to see you’. This promotes inclusion and reduces misgendering.

**HOW CAN WE USE INCLUSIVE LANGUAGE …**

**When talking about people’s genders?**

Using inclusive language means respecting people’s genders even when they do not look or sound like we might expect from someone of that gender. Some people have limited resources to appear to others as the gender with which they identify. Some people may decline gender-affirming medical intervention due to religious, financial, medical or personal reasons.

We can respect people’s genders regardless of their voices or bodies. We can check people’s preferred pronouns directly with them rather than assuming. People who look like they identify as women or men might not identify in the way they appear. We can check privately whenever possible to reduce discomfort.

**When talking about people’s relationships?**

When talking about people’s roles and relationships, we often use gendered language without realising it. We can use inclusive language by checking how people identify before using words that assume their gender, such as calling someone a mother or father or a girlfriend or boyfriend. A trans woman and her boyfriend might prefer to be described as a same-gender couple; a trans man and his boyfriend would likely prefer to be described as a same-gender couple not a straight couple. People who have non-binary genders may wish to be described using gender neutral language. We can use inclusive language by calling someone who identifies as agender a parent instead of a mother or father or a partner instead of a girlfriend or boyfriend. Some intersex, trans and gender diverse people are married. We can check how people describe
their relationships before using non-marital words like ‘partner’.

**When talking about people’s pasts?**

We all like to be recognised as who we are. An intersex or trans person’s ‘real’ name is the one that they prefer to use now. We can use inclusive language by keeping someone’s former name, assigned sex and gender confidential unless we have their clear permission. When it is necessary to discuss someone’s past, we can use names and pronouns that match how the person identifies now unless they request otherwise.

**When talking about people’s bodies?**

Most people find it disrespectful when others describe them based on their anatomy or medical history. Just as most of us prefer to be called a woman or a man and not be described by our bra size or prior vasectomy, we would call someone a trans woman or simply a woman instead of a ‘male-to-female pre-op transsexual’. Think about how you would feel before asking a personal question about someone’s genitals.

In medical contexts where such questions may be relevant, we can be aware that intersex men and trans men may identify as biologically male, just as intersex women and trans women may identify as biologically female. Intersex and trans people often describe their body parts in terms that match their gender identity instead of terms others might impose. Research shows that when health professionals misgender people’s chests and genitals, this can be a major barrier to the provision of health services and lead to poorer health outcomes. We can ask which terms people prefer before discussing their bodies. When medically relevant, we can ask about people’s sexual activities and behaviours without assuming based on anatomy.

**When talking about health issues and medical services?**

We can use inclusive language by including intersex, trans and gender non-binary people when we discuss health issues and medical services. Terms like ‘female’ and ‘male’ are often less informative than we may think. For example, when a trans woman who identifies as female takes oestrogen, treating her as ‘biologically’ male is physiologically inappropriate: some lab test results affected by hormonal levels should be assessed against a standard female range. We can include intersex men and trans men who may get pregnant by saying ‘pregnant people’ instead of expectant mothers. This principle also applies to medical treatment. We can describe pap smears as ‘urogenital services’ instead of as ‘women’s services’.

**On the phone?**

We can check with callers before using gendered language such as Sir, Miss, mother or husband. A standard disclaimer can be used at the beginning of a call to explain that people’s voices often do not match their genders and you are asking to ensure that all callers are treated respectfully.

**In person?**

For face-to-face interactions, we can add options to existing forms that allow people to select preferred pronouns (including not using any pronoun), preferred title (including no title) and preferred name prior to each meeting. We can ensure that all staff use this written information to avoid the embarrassment that some people experience when others ask “what gender are you?” and similar questions in public spaces.

**By post or email?**

We can check that our post contains a person’s preferred gender language. ‘Mr’ on post sent to a trans woman violates her privacy and could pose a risk to her physical safety. People might use email headers that have a different name and title than the one they prefer. We can use the name with which a person closes their email and not assume we can determine someone’s gender without asking them directly.

**In a database?**

Many databases use gender-restricted fields that make it difficult for intersex or trans and gender diverse people to participate or contribute. We can notice when databases are set up in gender-restrictive ways, such as when a system requires all people to select either male or female or when a system restricts the selection of item codes by gender. We can then identify ways to change the system to make it inclusive.

**When we hear disrespectful language or we unintentionally misgender someone?**

Disrespectful language and misgendering can make it difficult for people to participate fully in our communities and services. We often misgender people without even noticing that we have done so, and we often do not realise how our words can exclude people. People who are misgendered by others often stay silent, even when the misgendering may upset them a great deal. Some people take longer than others to learn how to use inclusive language. We can politely and consistently model inclusive language or clarify a person’s preferred language with others. By speaking up or modelling inclusive practice, we can make sure that all of us have a say in our communities and services.

If you misgender someone, apologise briefly and start using respectful gender language. In that moment, prolonged discussion about the misgendering is likely to make the person who was misgendered feel worse. After you leave the situation, you can reflect on how to be more inclusive in the future.

The value of inclusive language is that it underpins respect for all people who belong to our diverse and wonderful human community.

This Health Information Sheet was drafted by Y. Gavriel Ansara (Health Policy Officer) with input from Alliance Members. The Alliance gratefully acknowledges the assistance of the Australian Department of Health and Ageing.

A number of studies looking at human sexuality state that up to one in ten people are same-sex attracted – others indicate higher figures, and some lower. Same-sex attracted young people around the world come from a diverse range of social, cultural and racial backgrounds.

It’s still often difficult to tell other people about your sexuality, even though today many people appear to more accepting. In some cultures it is impossible to tell others without being rejected.

This topic is about coming out or going public – becoming aware of your own sexual orientation and telling others.

**Important**

Before you decide to come out, you need to carefully consider what it will mean to you.

- This will depend on your family situation, where you live, where you work and your own personal feelings and supports.
- For many people, coming out has been a great relief and a joy – for others it has brought pain and distress.
- It is suggested that you talk your situation over with an understanding counsellor – check out the Resources section on page 11 for some places to find one.

**What is ‘coming out’?**

To understand what people mean by ‘coming out’, you first need to know about what is meant by ‘sexual orientation’, and the different views people have.

- Our sexual orientation is about who we are attracted to sexually and emotionally.
- To be same-sex attracted means being sexually and emotionally attracted to people of your own sex, as well as seeing yourself as same-sex attracted.

- Some people believe that being same-sex attracted is a choice. Many others believe that people are born same-sex attracted.

There are different ways that people refer to same-sex attraction.

- ‘Gay’ often refers to men who are attracted to men, while ‘lesbian’ refers to women who are attracted to women. Some women call themselves gay as well.
- A person who is bisexual can be either a man or a woman who is sexually attracted to both sexes and who sees him or herself as being bisexual.
- The more general term for people who are attracted to their own sex is ‘homosexual’. Young people usually prefer to say they are same-sex attracted, gay/lesbian or bisexual, rather than use the term homosexual, which many do not identify with.
- ‘Straight’ or ‘heterosexual’ people are sexually attracted to the opposite sex.
  - In society, many people presume that everyone is heterosexual/straight.
  - Some believe that everyone should be heterosexual/straight.

**Same-sex attracted young people around the world come from a diverse range of social, cultural and racial backgrounds.**

In some countries, homosexuality is illegal. In Australia same-sex attraction is legal. In some countries/societies there is discrimination against and hate of same-sex attracted people.

- This is called homophobia (homophobia literally means fear of homosexuality).
- This can make it very difficult for many young people to tell others that they are same-sex attracted.
- A lot of people keep their sexuality secret because they’re afraid of being harassed or discriminated against by their family, friends and others.
- Some young people find it difficult to deal with the issue of their sexuality and feel they can’t tell anyone. This can make life very difficult for them because they’re constantly hiding their sexuality.

In some societies there is growing acceptance and open-mindedness about differences in people. Differences are celebrated e.g. multicultural and gay festivals.

- However, it can still be difficult to let others know about being same-sex attracted, because many people believe everyone is straight.
- Letting people know that you are same-sex attracted has become known as ‘coming out of the closet’, ‘coming out’, or ‘going public’.

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• It means coming out from hiding who you really are, and breaking free of some of the restraints placed on a person by society, by culture, by history and by law in some places.

‘Coming out’ is now a well known term, but it’s still understood differently by different people. Here is what a worker from the Inside Out Project had to say about the term ‘coming out’. There is more about Inside Out at http://insideout.cyh.com/:

“Most young people understand the metaphor of the closet long before they are able to articulate what is acceptable in their lives. They observe, and by doing so, learn of the world and how to act. If homosexuality were normalised, there wouldn’t be any problem whatsoever.

However, the process is ‘coming out’ to oneself – accepting one’s sexuality and sexual orientation. This is an internal process. The second part is also known as ‘going public’ – that is, telling others: family, friends, co-workers, everyone.”

Ryan – Inside Out worker

Why come out?

We all have many parts to our personal identities. Our sexuality is a part of our personal identity; it’s a part of who we are. Having to hide a part of our identity can lead to emotional pain and unhappiness.

When a part of our personal identity is damaged in some way, it can effect us on a number of levels, including our mental health, in dramatic ways.

Here is an example:

• When a person has been employed in a job for some time, this forms part of his or her identity. People describe themselves by their job, e.g. “I am a bank manager” or “I am a gardener”. People losing jobs may therefore lose a part of their identity because they can no longer describe themselves by their job type. Many people in this situation can become depressed.

It can be like that for same-sex attracted people who feel forced to hide or suppress their sexuality. This may be one of the contributing factors that has led to higher suicide rates for same-sex attracted people compared to straight people.

Many same-sex attracted young people simply want to be themselves, to be able to relax around friends, to bring their partner home to family celebrations, to do everything that ‘straight’ people take for granted. This means coming out or going public.

Some same-sex attracted young people come out simply because they’re proud of who they are and want others to know.

Here are some other reasons young people have given for coming out:

• To meet other same-sex attracted people.
• To have more meaningful relationships with family and friends based on who I really am.
• I wanted to be able to go to family celebrations with my partner.
• I was spending too much energy telling half-truths, changing names of my dates when I spoke to my friends – I couldn’t keep it up any more. I couldn’t keep track of the lies and who I’d told what. It exhausted me.
• For my own self-respect and self-esteem.
• To remove the barriers between my family and myself.
• I needed support from my family when my partner was ill.
• To give my family an opportunity to know the real me – all parts of me. I’m a pretty nice person to get to know.
• To make some changes in the world – the more people get to know same-sex attracted people well, the less homophobia will be around.
• I’d had enough of hearing discriminatory gay jokes, negative comments and put-downs about same-sex attracted people from my father. My self-esteem and self-respect were eroding. I came out to protect my self-esteem.

Our sexuality is a part of our personal identity; it’s a part of who we are. Having to hide a part of our identity can lead to emotional pain and unhappiness.

‘Stages’ of coming out

Some young people may never ‘come out’ to others or even to themselves – nor should they feel that they have to.

When young people decide to ‘come out’, they may experience some of the following stages.

• Many people say that first of all, they have to come out to themselves. This may mean having a feeling deep inside or perhaps a strong self-awareness about being same-sex attracted.
  - Some people say they ‘always knew’ this about themselves.
  - For others, accepting their sexuality, or coming out to themselves, comes later. It can take many years.
  - Some same-sex attracted people may be aware of their sexual orientation as young as 10 or younger, but don’t label themselves as same-sex attracted until about 14 years. They may not tell anyone until several years after that.
• After coming out to themselves, some people may then begin to want to come out to others in their lives, for their own reasons.
• People may come out first to other gay people, then family and friends. Many people say their mothers are the first family members they tell.
• Finally, a person may come out to the world. Some march in parades that celebrate sexual diversity.

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Sexual Orientation and Gender Identity
Others simply let the world know by living their normal lives in a positive and open way and feel comfortable not to have to lie.

No one has to go through these stages – no one has to feel as though they should come out to anybody or everybody. It is an individual choice.

Suggestions about coming out

• Don’t let anyone pressure you into going public. It’s your life; it’s your decision; it’s your choice. You don’t have to come out.
• Only tell someone if you have enough support to cope with their reaction. Not everyone will feel happy for you – some will try to tell you that you can change or even that you need therapy! Be prepared for any reaction.
• If someone rejects you, consider whether the relationship is really worthwhile. Don’t lose sight of your own self-worth. Find ways to nurture yourself and your self-esteem.

Don’t let anyone pressure you into going public. It’s your life; it’s your decision; it’s your choice. You don’t have to come out.

• Be prepared that once you start to tell people, others might find out pretty quickly.
• Give others time to get used to the idea – after all, you’ve given yourself time (perhaps years) to get used to the idea.
• Be clear about your own feelings about being gay. If you are still having doubts, if you’re feeling depressed or guilty, it may be best to get some support first, perhaps from a counsellor or telephone support line. Believe in yourself first.
• Don’t come out during an argument. Don’t use your sexuality as a weapon to hurt or shock someone else.
• Timing, timing, timing! It’s so important. Think about what’s happening for the person you want to tell. If they’re going through a lot of stress right now (e.g. exams, loss of a job or they are just in a bad mood), it may be a good idea to delay. Make sure you have time to sit down quietly together.
• Don’t do it when you’ve been drinking alcohol or using any other substance. It’s better to be able to think clearly.
• Tell them that you’re still the same person as you were yesterday – only now there’s more honesty between you both.
• You could have some leaflets or other information handy to give to your parents or close others (in the Parenting and Child Health section of www.cyh.com there is a topic for parents Young people who are gay or lesbian). Perhaps a local support and information service for parents and friends would be useful – see Resources on the next page.
• Think about the way you’ll come out – it doesn’t have to be a big confrontation with work mates and social friends. Just a comment, for instance, about what you’re doing on the weekend with your partner lets people know, with the information sinking in gradually.
• Think about some of the things your parents or others might say, and have some replies ready, e.g. they could ask, “how can you be sure?” or “lots of young people go through a phase like this at your age” or “you haven’t tried hard enough with the opposite sex”.
• If you decide to tell school friends, make sure that you can trust them and that they’ll be supportive and open-minded.
• If you decide to tell a teacher or counsellor, check out their confidentiality policy first.
• If it’s too hard to talk about to your parents, can you write a letter?
• Remember to also listen to what others have to say.
• Get support before coming out from a local support group or trusted friend or relative.
• Celebrate your coming out – what a huge step!

After coming out

Here are some of the mixed reactions young people have faced when coming out to others.

• My family said they’d always suspected I was same-sex attracted, and were just waiting for me to tell them.
• My father is more accepting than my mother is. Most of my friends are straight and they’re all accepting – some are curious.
• My mother said she was so pleased that I could share this with her.
• My ‘hetero’ friends are very accepting – we speak openly, they go to gay bars with me, invite me to parties with gay friends, some have even tried to match-make.
• My brother called me some terrible names – in fact we came to blows.
• I told my parents and they refused to talk about it. It was easier to move out of home.
• My grandfather has nothing to do with me anymore – I visit Nan when he’s out at bowls.
• My parents didn’t talk about it for four years after I told them, now they’re coming around. They’re talking openly about my life, becoming involved in my life and welcoming my gay friends into their home.
• I’m so relieved that I can now attend family weddings, funerals and celebrations with the woman I love, my life partner, with me as my best friend, lover and emotional support. Some family members know we’re same-sex attracted, others probably assume we’re friends. We don’t feel a need to make a big deal out of it – those who count know and they love and accept us both for who we are.
• My family listened to what I had to say, then swept it all under the carpet, pretending I hadn’t said a thing. I moved out of home, in fact, down to the city, so that I could live my life honestly in a new community, as a gay man.
I told my identical twin brother I was gay – he said, “me too”.

My best friend gave me a huge hug and said she was glad I’d had the courage to tell her – I’d been afraid she’d think I was trying to come on to her.

My friend was curious and wanted to know everything, like, how did I know I was gay, when did I realise, how old was I, and more. We talked for hours.

If you are working in a place where your sexuality could put you at risk either of violence or discrimination in the job, it may be worth checking out laws and policies that protect your rights.

**Risks**

There are times when coming out can put you at risk.

- If you are young and live with your parents, and they pay for you to live (e.g. food, clothes, schooling) and you think they might ‘kick you out’ of home or reject you, it may be best to choose not to come out just now. Wait until you are sure they’ll be supportive or until you are old enough to look after yourself.
  - If you can’t wait, be sure you have someone to support you and somewhere to go in case they react badly.
- If you are working in a place where your sexuality could put you at risk either of violence or discrimination in the job, it may be worth checking out laws and policies that protect your rights. Do you have the support to fight for your rights? Check out the topic **Workplace safety** on [www.cyh.com](http://www.cyh.com)
- If you are living in a place where you know your sexuality could put you at risk of extreme violence, for example in prison or in countries where homophobia can lead to violence, it would be wise to think very carefully about the pros and cons of coming out. Check out our topic **Diversity and discrimination in Australia** on [www.cyh.com](http://www.cyh.com)

**REFERENCES**


The information in this article should not be used as an alternative to professional care. If you have a particular problem, see a doctor, or ring the relevant youth healthline in your state or territory.

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What is intersex?

Intersex is a term that relates to a range of physical traits or variations that lie between ideals of male and female. Intersex people are born with physical, hormonal or genetic features that are neither wholly female nor wholly male; or a combination of female and male; or neither female nor male.

Many forms of intersex exist; it is a spectrum or umbrella term, rather than a single category. Intersex differences may be apparent at birth. Some common intersex variations are diagnosed prenatally. Some intersex traits become apparent at puberty, or when trying to conceive, or through random chance.

How many intersex people are there?

The lowest popular statistic is around 1 in 2,000 people (.05 per cent of births) but a more likely figure is closer to 1.7 per cent. This makes intersex differences about as common as red hair.

Intersex is not about gender identity; it is a lived experience of the body. Intersex people have a broad range of gender identities, just like non-intersex people. Our identities often do not match our appearance.

Are intersex individuals hermaphrodites?

Biologically, no. Hermaphrodites (such as snails) possess fully functioning sets of both ‘male’ and ‘female’ sex organs. This is impossible in mammals. Linguistically, the word originates in the Greek myth of Hermaphroditus who was both male and female, having elements of both sexes.

In the recent past, some intersex diagnoses were termed “pseudo-hermaphrodites” or “true-hermaphrodites”. While some intersex people use the term, others find it stigmatising due to that medical history. If in doubt, it is best only used by intersex people.

Are intersex individuals sick?

Intersex people, like all people, have health issues. In a few diagnoses, immediate medical attention is needed from birth, but being intersex is not a health issue in and of itself. Natural intersex bodies are most often healthy. Intersex people frequently need hormone replacement as a result of medical intervention.

Why are intersex individuals subjected to medical intervention?

Medical intervention attempts to make intersex individuals’ bodies conform to ideals of male or female. Current medical protocols are based on the ideas that infant genital surgery will “minimise family concern and distress” and “mitigate the risks of stigmatisation and gender-identity confusion”. Surgical interventions intrinsically focus on appearance, and not sensation or sexual function.

Childhood cosmetic genital surgeries are also problematic as children cannot consent to them. Adolescents, and even adults, have also reported feeling pressured by doctors and family to conform to societal norms. Some doctors still believe that disclosure of a person’s intersex status would be too alarming.

Very many intersex people suffer the physical and emotional effects of surgery, and related shame and secrecy. At a fundamental level, homophobia, intolerance and ancient superstitions underpin contemporary mistreatment of intersex people.

What is DSD? Is this the same as intersex?

In 2006, the medical community replaced the term intersex with “Disorders of Sex Development” or DSD. DSD reinforces the idea that intersex traits are individual medical conditions or disorders that need to be fixed.

Today, some intersex people use the label – especially those who were taught DSD by their parents or doctors since the term’s inception. Intersex people are free to use any label, and the term intersex remains widespread today.

We believe that stigmatising language leads to poor mental health, marginalisation, and exclusion from human rights and social institutions. The term intersex promotes equality and human rights for people born with atypical sex characteristics.

Do all intersex individuals identify as male or female, or in between?

Intersex is not about gender identity; it is a lived experience of the body. Intersex people have a broad range of gender identities, just like non-intersex people. Our identities often do not match our appearance.

Having a non-binary gender identity does not automatically make someone intersex.

Are intersex people transgender?

A minority of intersex people change gender, and some of them may self-identify as transgender, but...
almost all intersex people have had medical treatment to confirm their sex. Often that intervention was something they had no choice about. Many will not fully identify with their assigned gender. This is part of the intersex experience, but it doesn’t make us transgender.

**Intersex is part of LGBTI because of intersex status and a shared experience of homophobia, not because of sexual orientation or gender identity.**

**Are intersex people gay or lesbian, or queer?**

It depends on the individual, how they define their gender and identity, how they present, and who they form relationships with. Every intersex person is different.

Like all people, some intersex individuals are LGBT or queer, and some are heterosexual. However, LGBT activism has fought for the rights of people who fall outside of expected binary sex and gender norms.

Intersex is part of LGBTI because of **intersex status** and a shared experience of homophobia, not because of **sexual orientation or gender identity**.

**What are intersex activists’ goals?**

The goals of the intersex movement are to raise awareness, and achieve an equal place in society. We seek the right to bodily autonomy, the right to a life without stigma and discrimination, and the right to a life without shame and secrecy.

**How to be a good ally**

- Consider what you do to support intersex inclusion in health and human rights initiatives.
- Change your language and frame of reference. Intersex status is distinct from both sexual orientation and gender identity. These are each recognised in the federal Sex Discrimination Act.
- Put intersex people and intersex-led organisations front and centre when talking about intersex.
- Many medical studies of intersex people explicitly identify gender identity issues and non-heterosexual behaviours as reasons for medical treatment. Non-consensual surgery is an LGBTI issue as it shows what can happen when non-heteronormative people are established to be “born this way”. Ally with our call to end normalising interventions on intersex children.
- Adopt federal Guidelines on gender recognition, and offer everyone F, M and X options if you have to record gender in your workplace. Go further and support multiple options. Consider whether your workplace needs to record information on sex, gender and title. Can you offer an option to opt out?
- Intersex people should be included in campaigns for marriage equality, but we are not included in same-sex marriage. Marriages in Australia have been annulled on the basis that one party was neither fully male nor fully female.
- Include intersex in education, service access, and in employment and anti-bullying policies designed to prevent harassment and discrimination.
- Follow and share intersex issues on social networks.

**RESOURCES**

**Books**
- *Fixing Sex: Intersex, Medical Authority, and Lived Experience* by Katrina Karkazis.
- *Golden Boy, A Novel* by Abigail Tarttelin.

**Films**

**Speakers, articles, videos, information**
- Androgen Insensitivity Syndrome Support Group Australia, [aissga.org.au](http://aissga.org.au)

EUGENICS AND THE PRACTICE OF TRANSGENDERING CHILDREN

The practice of eugenics is returning to contemporary Australia in the treatment of transgendered children, writes Sheila Jeffreys, Professor of Sexual Politics at the University of Melbourne

With the cooperation of the Family Court, children as young as 10 are being put on puberty delaying drugs after being diagnosed with ‘gender identity disorder’ or ‘gender dysphoria’.

There is the expectation that they will be moved onto cross-sex hormones at 16 and receive surgery to amputate their genitals at 18.

Taking from the past

There are similarities between the eugenic sexual surgeries and drug treatments of the past and the transgendering of children now.

The ideas for both treatments come from scientists of sex such as biologists, endocrinologists and psychiatrists. Both practices are based on the idea that certain problematic behaviours have a biological basis and can be ‘cured’ by treatments which alter sexual characteristics.

Historically, eugenics practice was directed at the control or elimination of the economic underclass, ‘morons’, prostituted women, criminals, gypsies, those deemed morally deficient and lesbians and gays.

The eugenic treatment of lesbians and gays in the past included surgeries such as castration, hysterectomy, vasectomy and lobotomy.

Though males seeking to be transgendered today may be attracted to women or other men, it is recognised that the women are generally lesbians before they are diagnosed as ‘transgender’. Professionals involved in treating gender identity disorder in childhood are aware that three quarters of the boys referred for diagnosis by their parents will be homosexual or bisexual when they reach adulthood.

A regime of transgendering children, as well as adults, shored up a corrected gendered and heterosexual state and citizenry.

Early intervention

The practice of transgendering children is a consequence of the increasing normalisation of the practice of transgendering adults.

Male transgender activists argue that early intervention is vital to prevent what they see as ‘transgender’ children from experiencing puberty. They say the physical changes of puberty will make it harder later on to achieve a convincing likeness of the desired sex.

Parents and professionals are told by transgender organisations and websites that transgender treatment is the only responsible way forward. And that it may be the only way to protect the children from self-harm and suicide.

Children are diagnosed with ‘gender identity’ disorder as a result of engaging in behaviour unsuited to the child’s biological sex. There is no physical test available, so clinicians rely on the accounts of the child and the parents. The diagnostic criteria for gender dysphoria in children include “a strong desire to be of the other gender or an insistence that he or she is the other gender” and the engagement in behaviours culturally associated with the other sex.

The Australian case

The transgendering of children in Australia is usually requested by the parents or guardians of the children and then carried out by the Family Court. The 13-year-old girl called ‘Alex’ was transgendered through the Family Court in 2004.

More recently in April 2011, ‘Jamie’, a 10-year-old boy who had been diagnosed with gender identity disorder at the age of 7, was transgendered.

Jamie was described in the court as “a very attractive young girl with long blonde hair” – that he conformed really well with cultural stereotypes of what a girl should look like.

Jamie’s parents gave the necessary evidence to prove that Jamie had the disorder. He had identified as a girl at 2 years old, selected toys usually associated with girls and chose girls as friends. According to his mother, the ‘turning point’ was when Jamie wanted to wear a ‘ball gown’ on an outing to see Phantom of the Opera.

Permanent effects

The effects of the drug treatments and sexual surgeries that make up the transgendering of children can damage their reproductive rights, as well as their bodily integrity and future health.

Treatment with puberty delaying drugs leads to sterilisation when followed by the administration of cross-sex hormones at 16 years old. As a result, semen and ova do not come to maturity. The long-term effects of these treatments are unknown.

Decades after the sterilisation of the unfit was mostly abandoned, a similar practice is increasingly being carried out on children who are considered to be innately ‘transgender’ because they are disobeying culturally acceptable gender roles.

As happened with eugenic practices of the past, many progressive people including many feminists, feel that transgendering children is a reasonable practice and have not yet begun to criticise it.

Sheila Jeffreys is Professor of Sexual Politics at the University of Melbourne.

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Don’t demonise doctors for treating gender identity disorder

HOW DO WE GIVE VOICE TO PEOPLE – ESPECIALLY CHILDREN – WHOSE EXPERIENCES CHALLENGE OUR OWN BELIEFS? BY MYFANWY MCDONALD

Imagine yourself as a doctor consulting with a child who is experiencing profound discomfort. At times, the parents inform you, the child’s profound discomfort escalates, manifesting in profound distress that leads to self-harming behaviour.

Imagine, now, that the child knows exactly what is causing their discomfort and that you can facilitate that treatment, with the full support of the child’s parents. No brainer, right? But what if the child is experiencing gender dysphoria, a “profound discomfort with (one’s) biological sex and a strong identification with the gender of the opposite sex”?

Recent research highlighting an increase in the number of children referred to a gender dysphoria clinic in Melbourne brings to light some of the complex, highly charged issues that emerge when medicine steps into this contested cultural space.

The research indicates that these children and their parents go to great lengths to consult with doctors at gender identity clinics. So how then can doctors be the enforcers of gender norms if it is patients who seek and request that treatment?

SEX, GENDER AND GENDER DYSPHORIA

To understand gender dysphoria, it is important to first understand the difference between gender and sex. Sex pertains to the biological categories of male and female. Males and females are distinct from one another in regards to a range of factors including sex chromosomes (XY or XX), hormones and sex organs.

Gender, on the other hand, is a more slippery concept. It refers to the categories of man or woman and boy or girl. Gender is typically viewed as a ‘natural’ expression of sex; males are ‘naturally’ manly (masculine) and females are ‘naturally’ womanly (feminine).

But gender can also be understood as a social construct. According to this view, males display masculine characteristics (competitiveness, non-emotionality) and females display feminine characteristics (sensitivity, passivity) because of cultural expectations. These cultural expectations are often referred to as ‘gender norms’.

The slipperiness of gender means that gender dysphoria is a highly-charged issue. If gender is a social construct, could it be that the ‘profound discomfort’ experienced by people with gender dysphoria is the result of restrictive cultural expectations – that males will feel (and act) like women – rather than the consequence of a medical condition? And could it be that by treating people with gender dysphoria doctors are responding to cultural expectations rather than treating a real medical condition?

The experiences of many people with gender dysphoria would suggest that the cultural expectation hypothesis is bunkum or, at best, overly simplistic. The idea that they are responding to cultural expectations undermines the personal, intimate – and typically very distressing – nature of their experience.

THE ROLE OF DOCTORS

Discussions about the role of doctors in treating gender dysphoria often present them as being enforcers of culturally acceptable gender norms. According to this argument, by changing a person’s physical body (such as a male-born person who undergoes sex reassignment surgery) to ‘match’ their gender (so that the male-born person then has a body that ‘matches’ their experience of themself as a woman), doctors are reinforcing the idea that males cannot (or should not) feel or act like women and females cannot (or should not) feel or act like men.
There are a number of problems with this argument. To begin with, adults with gender dysphoria seek out treatment for their condition. They’re not plucked from a crowd for failing to live up to ‘gender standards’.

The research mentioned at the start of this article suggests that children (with the help of their parents) also seek out the services of gender identity clinics.

Johnny is not plucked from the playground because he likes playing with My Little Pony and forced to undergo gender transition. Rather, the research indicates that these children and their parents go to great lengths to consult with doctors at gender identity clinics. So how then can doctors be the enforcers of gender norms if it is patients who seek and request that treatment?

Only a small number of children currently seek treatment for gender dysphoria. But the issues that emerge as a result of the treatment of this condition raise questions that apply to a much broader audience.

But then again, just because some people seek out treatment for gender dysphoria, doesn’t mean they’re not influenced by gender norms. It could be that people who experience gender identity disorder somehow internalise cultural expectations of gender and as a result, come to understand themselves as having a medical condition that requires treatment.

The problem with this argument is that it suggests that the people who seek out treatment for gender dysphoria are cultural ‘dupes’ – the victims of some kind of ‘gender conspiracy’. When it comes to children with gender dysphoria, this argument takes us back to an era when children’s voices and self-described experiences were viewed as unreliable and untrustworthy. It suggests that children cannot speak for themselves and do not know themselves and their bodies.

WHEN MEDICAL TREATMENT RAISES QUESTIONS

Research in Melbourne suggests only a small number of children currently seek treatment for gender dysphoria. But the issues that emerge as a result of the treatment of this condition raise questions that apply to a much broader audience.

When do children know their own body and understand the meaning and significance of their experiences? How can we have debates about contested medical treatments when one side relegates patients to the role of cultural dupes and demonises the doctors who try to help them?

When do children know their own body and understand the meaning and significance of their experiences? How can we have debates about contested medical treatments when one side relegates patients to the role of cultural dupes and demonises the doctors who try to help them? And most importantly, how do we give voice to people – especially children – whose experiences challenge our own beliefs?

Myfanwy McDonald is Senior Project Officer, Community Child Health, Population, Health, Genes and Environment at Murdoch Childrens Research Institute.

Sexuality and gender identity do not cause mental health problems. However, social pressures associated with being LGBTI can interfere with good mental health and increase the chance of developing a mental health problem, cautions headspace

If you’re experiencing bullying or discrimination because of your sexuality it most likely feels horrible. It can make it difficult to enjoy life and to feel understood and supported and may leave you feeling unhappy or frustrated. If your difficulties seem to be going on for weeks or months, or are impacting on things like your sleep, appetite, school work or your concentration, then it might be time to get some help.

Sexuality, gender identity and mental health

Not all Lesbian, Gay, Bisexual, Transgendered or Intersex (LGBTI) people face the same issues in their lives, but there are some common experiences that can affect your wellbeing.

These can include:
- Feeling ‘different’ from other people
- Feeling pressure to deny or change your sexuality
- Worries about ‘coming out’ to friends and family members, and the possibility of being rejected or ridiculed
- Difficulty fitting in and coping at school
- Bullying, whether verbal or physical
- Feeling unsupported or misunderstood by family or friends.

These pressures can be very stressful, especially when combined with all the other issues in your life such as managing school or university, finding a job, forming relationships and making sense of your identity and your place in the world.

Mental health

Mental health is about being able to work and study to your full potential, cope with day-to-day life stresses, be involved in your community, and live your life in a free and satisfying way.

Discrimination, abuse and being made to feel ‘different’ because of your sexuality or gender identity can make it difficult to enjoy life fully and to have a sense of wellbeing. It can make it hard to ask for help when problems come up, and to know where to turn when you need help and support.

Why do mental health problems develop?

There is no single cause of mental illnesses. Instead, they usually result from a number of overlapping factors including:
- Biological factors such as the genes inherited from your parents
- Early life experiences such as abuse, neglect, or the loss of someone close to you
- Individual factors such as your level of self-esteem, coping skills and thinking styles
- Current circumstances, for example stress at school or work, worries about money, difficult personal relationships, or problems within your family.

When does your mental health become a problem?

Things to look out for include:
- Changes in behaviour – such as being more or less talkative, or more aggressive
- Changes in mood – such as feeling sadder or more anxious than usual
- Changes in relationships – for example falling out with friends or your partner, or conflict with family
- Changes in appetite and sleep patterns – such as sleeping or eating more or less than usual,

Discrimination, abuse and being made to feel ‘different’ because of your sexuality or gender identity can make it difficult to enjoy life fully and to have a sense of wellbeing. It can make it hard to ask for help when problems come up, and to know where to turn when you need help and support.
or losing or gaining weight rapidly
• Changes in coping – feeling overwhelmed or tired of life.

While it’s normal to experience some of these changes from time to time, it’s time to ask for some help if they last longer than usual, affect most areas of your life, or stop you from doing the things you usually enjoy.

Getting help

Getting help early can reduce the effects of mental health problems on your life, and the chance of having more serious problems in the future.

Some LGTBI young people find it especially hard to ask for help, perhaps because of discrimination by health professionals in the past, worries about privacy, or difficulty talking to strangers about sexuality or gender identity. It’s important to find someone you trust and feel comfortable with. Remember that your local doctor (general practitioner – GP) and other health professionals are knowledgeable about LGTBI issues, and experienced in working with LGTBI young people.

Start with your local community health centre or headspace centre. A trusted friend, teacher or family member might also be able to recommend someone. It can take time to find the health professional who is right for you, so don’t give up if you don’t find the right person straight away. Remember that you don’t have to discuss your sexuality if you don’t feel comfortable or safe.

Helping yourself

You can take some action to help yourself stay mentally healthy and reduce the risk of developing mental health problems.

Here are some strategies to use when you’re feeling stressed out or having a hard time:
• Eat well
• Get enough sleep
• Spend time with people you trust and who make you feel good about yourself
• Talk to people

Some LGTBI young people find it especially hard to ask for help, perhaps because of discrimination by health professionals in the past, worries about privacy, or difficulty talking to strangers about sexuality or gender identity. It’s important to find someone you trust and feel comfortable with.

ACNOWLEDGMENTS:
• Writing Themselves in 3: The third national study on the sexual health and wellbeing of same sex attracted and gender questioning young people. Australian Research Centre in Sex, Health and Society, La Trobe University, 2010.
• Feeling Queer and Blue: A review of the literature on depression and related issues among gay, lesbian, bisexual and other homosexually active people. Australian Research Centre in Sex, Health and Society, La Trobe University, 2008.

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FACTORS AFFECTING LGBTI PEOPLE

The majority of lesbian, gay, bi, trans and intersex (LGBTI) people lead happy, healthy, fulfilling lives. However, studies have found that non-heterosexual people face up to twice as much abuse or violence (including physical, mental, sexual or emotional) than their heterosexual counterparts. This prejudice and discrimination adds an additional layer of risk on top of biological, social, environmental and psychological factors which can lead to depression and anxiety, explains beyondblue.

Research and real life experiences have found that LGBTI people have an increased risk of depression and anxiety, substance abuse, self-harming and suicidal thoughts.

When compared with heterosexual people, homosexual and bisexual people are twice as likely to experience anxiety (31.5 per cent compared with 14.1 per cent) and three times as likely to experience depression and related disorders (19 per cent compared with 6 per cent).

Lesbian and gay young people

Around 10 per cent of young Australians experience same-sex attraction, most realising this around puberty. They may be more likely to experience bullying at school and/or greater difficulty connecting with others. In an Australian study, 61 per cent of young non-heterosexual people reported experiencing verbal abuse and 18 per cent reported physical abuse.

Young LGBTI people with a history of verbal, sexual and/or physical victimisation and abuse have higher levels of social and mental health problems than heterosexual young people – including sexual risk-taking, dangerous use of alcohol and drugs, dropping out of school, homelessness, self-harm and attempted suicide.

Lesbian and other homosexually active women

In some studies, lesbian and other homosexually active women reported higher rates of depression than heterosexual women. A study in the US found that non-heterosexual women were more than three times as likely to have generalised anxiety disorder than heterosexual women. Younger and older lesbians appear to be at a higher risk of depression than mid-aged lesbians.

Gay and other homosexually active men

Gay men are more likely than heterosexual men to be diagnosed with major depression or panic disorder, especially those experiencing social withdrawal, isolation and socioeconomic hardship. Younger gay and homosexually active men seem to be at higher risk for depression than older gay men. Many gay men living with HIV have lost relationships, social support networks, careers, earning capacity and a sense of future. These multiple losses make them more likely to develop depression and may also compound symptoms.

Bisexual people

Studies of bisexual people consistently show that they have even higher rates of depression or depressive symptoms than homosexual people.

Transgender people

It is likely that the prevalence of depression and anxiety is even higher for trans and intersex people. In an Australian survey of GLBTI people, around 60 per cent of transgender males and 50 per cent of transgender females reported having depression. A 2007 survey of Australian and New Zealand transgender people found that almost 90 per cent had experienced at least one form of stigma or discrimination, including verbal abuse, social exclusion, receiving lesser treatment due to their name or sex on documents, physical threats and violence. Almost two thirds of participants reported modifying their activities due to fear of stigma or discrimination. People experiencing a greater number of different types of discrimination were more likely to report being currently depressed.

Intersex people

There are few studies of mental health in intersex people. Sources of psychological stress include confusion about sexual identity and gender roles, and treatment issues such as surgery at a young age, surgery without informed consent, and lack of disclosure from parents and health carers. A survey of LGBTI Australians found that around 60 per cent of intersex people reported having depression and about 70 per cent of intersex males and 85 per cent of intersex females had seen a counsellor or psychiatrist during the previous five years.

Combating discrimination based on sexual orientation and gender identity

The Office of the High Commissioner for Human Rights is a United Nations human rights agency which is speaking up to stop discrimination against LGBT people. “As men and women of conscience, we reject discrimination in general, and in particular discrimination based on sexual orientation and gender identity. Where there is a tension between cultural attitudes and universal human rights, rights must carry the day,” he said.

Protecting LGBT people from violence and discrimination does not require the creation of a new set of
LGBT-specific rights, nor does it require the establishment of new international human rights standards. The legal obligations of States to safeguard the human rights of LGBT people are well established in international human rights law on the basis of the Universal Declaration of Human Rights and subsequently agreed international human rights treaties. All people, irrespective of sex, sexual orientation or gender identity, are entitled to enjoy the protections provided for by international human rights law, including in respect of rights to life, security of person and privacy, the right to be free from torture, arbitrary arrest and detention, the right to be free from discrimination and the right to freedom of expression, association and peaceful assembly.

All people, irrespective of sex, sexual orientation or gender identity, are entitled to enjoy the protections provided for by international human rights law.

The core legal obligations of States with respect to protecting the human rights of LGBT people include obligations to:

- **Protect** individuals from homophobic and transphobic violence.
- **Prevent** torture and cruel, inhuman and degrading treatment.
- **Repeal** laws criminalising homosexuality.
- **Prohibit** discrimination based on sexual orientation and gender identity.
- **Safeguard** freedom of expression, association and peaceful assembly for all LGBT people.

For more information on applicable international human rights standards in this context, please refer to a booklet published by OHCHR in September 2012 available at www.ohchr.org/Documents/Publications/BornFreeAndEqualLowRes.pdf

**Recent advances**

In recent years, many States have made a determined effort to strengthen human rights protection for LGBT people. An array of new laws has been adopted – including laws banning discrimination, penalising homophobic hate crimes, granting recognition of same-sex relationships, and making it easier for transgender individuals to obtain official documents that reflect their preferred gender. Training programmes have been developed for police, prison staff, teachers, social workers and other personnel, and anti-bullying initiatives have been implemented in many schools.

The issue is also receiving unprecedented attention at an inter-governmental level. In June 2011, the Human Rights Council adopted resolution 17/19 (A/HRC/RES/17/19) – the first United Nations resolution on sexual orientation and gender identity – expressing “grave concern” at violence and discrimination against individuals based on their sexual orientation and gender identity. Its adoption paved the way for the first official United Nations report on the issue prepared by the Office of the High Commissioner for Human Rights (A/HRC/19/41). The report’s findings formed the basis of a panel discussion that took place at the Council in March.

**Born free and equal**

**Sexual orientation and gender identity in international human rights law**

**A five-step summary of recommendations from the United Nations Human Rights Office of the High Commissioner**

1. **PROTECT** people from homophobic and transphobic violence. Include sexual orientation and gender identity as protected characteristics in hate crime laws. Establish effective systems to record and report hate-motivated acts of violence. Ensure effective investigation and prosecution of perpetrators and redress for victims of such violence. Asylum laws and policies should recognise that persecution on account of one’s sexual orientation or gender identity may be a valid basis for an asylum claim.

2. **PREVENT** the torture and cruel, inhuman and degrading treatment of LGBT persons in detention by prohibiting and punishing such acts and ensuring that victims are provided with redress. Investigate all acts of mistreatment by State agents and bring those responsible to justice. Provide appropriate training to law enforcement officers and ensure effective monitoring of places of detention.

3. **REPEAL** laws criminalising homosexuality, including all laws that prohibit private sexual conduct between consenting adults of the same sex. Ensure that individuals are not arrested or detained on the basis of their sexual orientation or gender identity, and are not subjected to baseless and degrading physical examinations intended to determine their sexual orientation.

4. **PROHIBIT** discrimination on the basis of sexual orientation and gender identity. Enact comprehensive laws that include sexual orientation and gender identity as prohibited grounds of discrimination. In particular, ensure non-discriminatory access to basic services, including in the context of employment and health care. Provide education and training to prevent discrimination and stigmatisation of LGBT and intersex people.

5. **SAFEGUARD** freedom of expression, association and peaceful assembly for LGBT and intersex people. Any limitations on these rights must be compatible with international law and must not be discriminatory. Protect individuals who exercise their rights to freedom of expression, association and freedom of assembly from acts of violence and intimidation by private parties.
2012 – the first time a United Nations intergovernmental body had held a formal debate on the subject.

**Activities of the human rights office**

OHCHR is committed to working with States, national human rights institutions and civil society to achieve progress towards the worldwide decriminalisation of homosexuality and further measures to protect people from violence and discrimination on grounds of their sexual orientation or gender identity.

**OHCHR is committed to achieving progress towards the worldwide decriminalisation of homosexuality and further measures to protect people from violence and discrimination on grounds of their sexual orientation or gender identity.**

Planned activities include:

- Privately raising concerns and putting forward recommendations for reform in the context of dialogue with Governments.
- Monitoring and bringing to light patterns of human rights violations affecting LGBT persons, including reporting produced by OHCHR field presences.
- Engaging in public advocacy of decriminalisation and other measures necessary to strengthen human rights protection for LGBT persons, including through speeches and statements, newspaper articles, video messages and distribution of various other materials.
- Working with UN partners to implement various public information and related educational activities intended to counter homophobia and violence motivated by animosity towards LGBT persons.
- Providing support for the special procedures in the context of their fact-finding activities and confidential communications with Government.
- Supporting the human rights treaty bodies, a number of which have addressed the issue of discrimination linked to sexual orientation in previous general comments and concluding observations and continue to highlight steps that individual States should take in order to comply with their international treaty obligations in this respect.
- Providing support for the Universal Periodic Review, which provides a forum for concerns regarding the rights of LGBT persons to be aired and for recommendations to be developed.

On 26 July 2013, High Commissioner Navi Pillay launched a year-long public information campaign designed to raise awareness of homophobic and transphobic violence and discrimination and promote greater respect for the rights of LGBT people everywhere.

All campaign materials are available through a dedicated website – [www.unfe.org](http://www.unfe.org).

You can follow the campaign on Facebook, [facebook.com/free.equal](http://facebook.com/free.equal) or Twitter, [@free_equal](http://@free_equal).

The Office’s work on LGBT human rights is coordinated from OHCHR-New York. For further background, written materials and other recent LGBT-related outputs, please explore the links on [www.unfe.org](http://www.unfe.org).

**UN launches global campaign for LGBT equality**

Free & Equal is an unprecedented United Nations global public education campaign for lesbian, gay, bisexual and transgender (LGBT) equality. A project of the United Nations Human Rights Office being implemented in partnership with the Purpose Foundation, Free & Equal will raise awareness of homophobic and transphobic violence and discrimination, and promote greater respect for the rights of LGBT people everywhere.

The campaign will engage millions people around the world in conversations that will help promote the fair treatment of LGBT people and generate support for measures to protect their rights. The campaign’s message is threefold:

- **Human rights really are universal.** Everyone, whoever they are and wherever they live, is entitled to the same rights – and that includes LGBT people. Violence and discrimination against LGBT people, which has been documented in all regions, is unacceptable and illegal under international human rights law.
- **LGBT people are just that: people.** The United Nations wants to encourage those who have never thought much about this issue, and who might live in parts of the world where sexuality and gender identity are taboo topics, to learn about the lives of LGBT people, their hopes and their fears, and become better informed about the human rights challenges they face.
- **Things are getting better.** For all the bad news and the inevitable setbacks, the long-term trends are positive. Attitudes are shifting in many parts of the world, and many governments are gradually stepping forward and implementing necessary reforms. Changes that would have seemed impossible 10 or 20 years ago are taking root, and as they do, the balance of opinion both within and among countries is steadily tilting in favour of equality for LGBT people.


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**Issues in Society | Volume 378**
Equality and non-discrimination
A FACT SHEET FROM THE UNITED NATIONS CAMPAIGN, FREE & EQUAL

EQUALITY AND NON-DISCRIMINATION

Equality and non-discrimination are core principles of international human rights law. Everyone, without distinction, is entitled to enjoy all human rights, including the right to be treated as equal before the law and the right to protection from discrimination on various grounds that include sexual orientation and gender identity.

DISCRIMINATORY LAWS AND POLICIES

State laws and policies - which should protect everyone from discrimination - are the source of both direct and indirect discrimination against millions of lesbian, gay, bisexual, transgender and intersex people around the world. In more than a third of the world’s nations, private, consensual same-sex relationships are criminalised. These laws violate rights to privacy and to non-discrimination, both of which are protected in international law, and expose individuals to the risk of arrest, prosecution and imprisonment, and, in at least five countries, the death penalty.

Other examples of discriminatory measures include bans on lesbian, gay, bisexual and transgender (LGBT) people holding certain jobs, discriminatory restrictions on free speech and public demonstrations, and the denial of legal recognition of same-sex relationships. Many States require transgender people to submit themselves to sterilisation as a condition of obtaining legal recognition of their gender, without which many are forced to live on the margins of society, excluded from regular employment, healthcare and education, and denied other basic rights.

SOCIAL DISCRIMINATION

People who are, or are perceived as, lesbian, gay, bisexual, transgender or intersex suffer from social stigma, exclusion, and bias at work, at home, at school, in health care institutions and in many other aspects of their lives. Individuals may be fired from their jobs, bullied at school, denied appropriate medical treatment, thrown out of their homes, disowned by their parents, forced into psychiatric institutions, forced to marry or become pregnant, and subjected to attacks on their reputation. For intersex people, discrimination often begins at birth, with many intersex babies and young children subjected to surgical and other interventions, performed without their or their parents’ informed consent, with the intention of erasing intersex differences.

DON’T SAY ‘GAY’?

Freedom of expression is threatened in parts of Eastern Europe and Africa by a series of laws and draft laws intended to prohibit “public promotion of homosexuality.” LGBT groups often face discriminatory restrictions and bans on holding public gatherings. LGBT pride marches have been banned in some cities; in others, where marches have gone ahead, the authorities have failed to take effective measures to protect participants, leading to violent attacks by neo-Nazi groups and other extremists.

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STATE RESPONSIBILITY

States have a legal obligation both to make sure that their own laws and policies do not discriminate against people based on sexual orientation and gender identity, and that the legal framework offers adequate protection against such discrimination practiced by third parties. This obligation transcends culture, tradition and religion. All States, regardless of their history or regional specificities, must guarantee the rights of all people. Governments that refuse to protect the human rights of LGBT people are in violation of international law.

RECENT ADVANCES

In recent years, some States have made a determined effort to strengthen human rights protections for LGBT people. An array of new laws has been adopted, including laws banning discrimination and penalising homophobic hate crimes, recognising same-sex relationships, and making it easier for transgender individuals to obtain official documents that reflect their preferred gender.

Concerns about the frequent and extreme forms of human rights violations against LGBT people have been expressed repeatedly by United Nations human rights mechanisms since the early 1990s. These mechanisms include the treaty bodies established to monitor States’ compliance with international human rights treaties, as well as the special rapporteurs and other independent experts appointed by the Human Rights Council to investigate and report on pressing human rights challenges.

In 2010, in a landmark speech on LGBT equality in New York, United Nations Secretary-General Ban Ki-moon called for measures to tackle violence and discrimination against LGBT people: “As men and women of conscience, we reject discrimination in general, and in particular discrimination based on sexual orientation and gender identity. Where there is a tension between cultural attitudes and universal human rights, rights must carry the day.”

ACTION POINTS

**States:**
- Decriminalise consensual adult same-sex relations.
- Adopt anti-discrimination laws that prohibit discrimination based on sexual orientation and gender identity in employment, education, healthcare and identification.
- Enact laws to facilitate legal recognition of a person’s preferred gender without requiring sterilisation, gender reassignment surgery or any other medical procedures or treatments to be carried out. Repeal laws that require sterilisation of people who have sex reassignment surgery.
- Ensure that law enforcement, healthcare, education, judiciary and other service sector personnel are sufficiently trained to be able to ensure equal treatment of LGBT persons.
- Adopt national action plans to implement anti-discrimination legislation in all sectors of society.

**Media:**
- Give an objective and balanced picture of LGBT people and their rights concerns.
- Include the voice of LGBT people and groups in newspaper, TV and radio coverage.

**You, your friends and other individuals can make a difference too:**
- Speak out when you see any form of discrimination against LGBT people.
- If you, your friends or family members believe you are the victim of discrimination on grounds of your sexual orientation or gender identity, alert UN human rights special procedures by sending an email to urgent-action@ohchr.org
- Don’t assume that everyone else is heterosexual: ask if someone has a partner rather than assuming they have a wife, if a man, or a husband, if a woman.
- Don’t assume all trans and intersex people are lesbian or gay – they may be heterosexual or bisexual.

Criminalisation of same-sex relations

Free & Equal explains the criminal consequences for many people in same-sex relationships around the world who are still being punished for who they love.

In at least 76 countries, discriminatory laws criminalise private, consensual same-sex relationships, exposing millions of individuals to the risk of arrest, prosecution and imprisonment — and even, in at least five countries, the death penalty.

Criminalisation of consensual same-sex conduct violates rights to privacy and to freedom from discrimination, both protected under international law, and places States in material breach of their obligation to protect the human rights of all people, regardless of sexual orientation or gender identity.

In at least 76 countries, discriminatory laws criminalise private, consensual same-sex relationships, exposing millions of individuals to the risk of arrest, prosecution and imprisonment — and even, in at least five countries, the death penalty.

These laws typically prohibit either certain types of sexual activity or any intimacy or sexual activity between persons of the same sex. In some instances, the wording of the law is vague and undefined, referring, for example, to ‘debauchery,’ or to crimes against ‘morality’ or ‘the order of nature.’ Some States specifically criminalise same-sex conduct between men, while others outlaw both male and female same-sex conduct.

In most cases, these laws are a legacy of colonial rule: imposed on the countries concerned during the 19th Century by the colonial powers of the day. For example, many of the laws used to punish gay men in Africa and the Caribbean were in fact written in Victorian London.

What does international law say about criminalisation?

In 1994, in the case of Toonen vs Australia, the United Nations Human Rights Committee confirmed that laws criminalising homosexuality violate rights to privacy and non-discrimination in breach of States’ legal obligations under the International Covenant on Civil and Political Rights. Where these laws are enforced, they may also lead to violations of the right to freedom from arbitrary arrest and detention.

In addition, States that impose the death penalty for consensual, adult same-sex conduct violate the right to life enshrined in the Universal Declaration of Human Rights. The death penalty is the legally prescribed punishment for homosexuality-related offences in Iran, Mauritania, Saudi Arabia, the Sudan, Yemen, and may be applied by religious courts in regions of Somalia and Nigeria.

Defenders of criminalisation have repeatedly failed to convince the Human Rights Committee that criminalisation is a ‘reasonable’ and ‘proportionate’ response to any claimed threat to public health and welfare. Rather, the Committee has emphasised the detrimental impact of criminalisation on public health, including in the context of HIV prevention and treatment (see next page).

While countries have different cultures and traditions, and public attitudes vary enormously, the emphasis on universality in international human rights law requires all States, regardless of prevailing cultural and traditional values, religious beliefs and popular opinion, to protect the human rights of everyone.
Sexual Orientation and Gender Identity
Issues in Society | Volume 378

Consequences of criminalisation

The United Nations has frequently expressed concern about the criminalisation of same-sex relationships. In addition to violating basic rights, criminalisation legitimises prejudice in society at large and exposes people to hate crimes, police abuse, torture and family violence.

These laws typically prohibit either certain types of sexual activity or any intimacy or sexual activity between persons of the same sex. Some States specifically criminalise same-sex conduct between men, while others outlaw both male and female same-sex conduct.

As the World Health Organisation (WHO) and The Joint United Nations Programme on HIV/AIDS (UNAIDS) have shown, criminalisation also has a dire effect on public health, especially on efforts to prevent the spread of HIV. It can, for example, deter some of those most at risk of infection from coming forward for testing and treatment out of fear of being deemed a criminal. It can also endanger those who work to defend the human rights of lesbian, gay, bisexual and transgender (LGBT) people by exposing them to attacks and intimidation.

Criminalisation also fuels discrimination against people who dress or behave in a way that challenges traditional gender norms. There have been many incidents of individuals arrested or attacked based on their clothes, mannerisms and style of speech.

The existence of widespread homophobia and transphobia only makes more urgent the need for Governments to fulfill their legal duty to protect LGBT people from violence and discrimination. Repealing laws that criminalise same-sex conduct and other laws used to punish LGBT people is an important step towards combating prejudice and protecting human lives.

Action points

States:

- Repeal laws that criminalise private, consensual sexual relationships between adults of the same sex, and other laws used to punish individuals on the basis of their sexual orientation and gender identity in violation of international human rights standards.
- Release any individuals currently in custody on the basis of consensual same-sex conduct.
- Where relevant, reform age-of-consent laws to equalise the age of consent for same-sex and different-sex conduct.
- Ensure that individuals are not subjected to degrading physical examinations intended to determine their sexual orientation.

You, your friends and other individuals can make a difference too:

- Speak out when people around you are arrested or imprisoned because of their sexual orientation or gender identity.
- If you live in a State that continues to criminalise homosexuality, write to your Government and/or legislators and urge them to introduce reforms necessary to bring national law into compliance with international human rights standards, which prohibit criminalisation of private, consensual same-sex conduct. Send letters to newspapers and engage in online discussions as a way of expressing your support for reform.
- If you or your friends or family members are arrested and detained on charges relating to consensual, same-sex conduct, alert UN human rights special procedures by sending an email to urgent-action@ohchr.org

Decriminalising homosexuality worldwide: should Australia get involved?

Australia has an opportunity to encourage other countries to take the first step, write Monash University's Paula Gerber and Joel Gory

In Australia, there is an ongoing debate around the right for same-sex couples to marry. The majority of laws discriminating against lesbian, gay, bisexual and transgender (LGBT) people were repealed in 2008. Earlier this year, the Sex Discrimination Act (1984) was also amended to prohibit discrimination on the grounds of sexual orientation, gender identity or intersex status.

In order for LGBT people to achieve full equality, Dutch sexual orientation law expert Kees Waaldijk suggests that five steps must be completed. These are: decriminalising consensual sex between adults of the same sex; equalising the ages of consent; enacting anti-discrimination legislation; legally recognising same-sex relationships; and legally recognising same-sex parents.

There are parts of Australia that do retain some areas of discrimination against LGBT persons, including adoption of children by same-sex couples, and in Queensland, the continued existence of the ‘gay panic defence’. However, although homosexuality itself is no longer a crime, some men do still carry the burden of convictions they received in that era.

Australia has completed four of the five stages needed in order to achieve full equality for LGBT people. It is the fourth – not the fifth – stage that we are stuck on.

Even completed the first step towards achieving equality. In these countries, consensual same-sex conduct is still a criminal offence attracting significant prison sentences – and in some countries, the death penalty.

In recent years, many countries have endeavoured to further criminalise homosexuality, including Uganda, Liberia and Nigeria, with increasing instances of active enforcement.

In December 2012, a Cameroon appellate court upheld a three year jail sentence imposed on Jean-Claude Roger Mbede for ‘homosexuality’, on the basis of a text message he sent to another man. In Malawi in 2010, a judge imposed the maximum sentence of 14 years in prison with hard labour on a gay couple convicted of gross indecency and unnatural acts, after holding an engagement ceremony.

It is an indictment on the British Empire that of the 76 countries that still criminalise homosexuality, over half were once part of that empire and retained the anti-sodomy laws when they gained their independence. As a result, 41 of the 54 Commonwealth states still criminalise homosexuality, including neighbours of Nauru, Papua New Guinea, Samoa, the Solomon Islands, Malaysia, Singapore, and Sri Lanka.

Therefore, with the biennial Commonwealth Heads of Government Meeting (CHOGM) taking place in Sri Lanka in November this year, it is timely to ask: what, if anything, should Australia be doing to try and bring an end to the criminalisation of homosexuality in other Commonwealth nations?

CHOGM last met in Perth in 2011, and at that time ruled out supporting a Commonwealth-wide decriminalisation of homosexuality.
despite being urged to do so by Australia’s then-foreign minister Kevin Rudd. Indeed, agreement could not even be reached to publish the report by the Commonwealth Eminent Persons Group that looked at how the Commonwealth could be reformed. The report, which included input from former High Court justice Michael Kirby, apparently recommended the lifting of bans by all member states outlawing homosexuality.

If agreement could not be reached on decriminalising homosexuality when CHOGM was held in Australia, what are the prospects when it is held in one of the countries with anti-gay laws?

There is some cause for hope. For one, since the last CHOGM, a new organisation named Kaleidoscope Trust has been formed to work towards the repeal of all laws which criminalise individuals on the basis of their sexual orientation or gender identity.

Although Kaleidoscope Trust is based in the UK, an Australian branch, known as Kaleidoscope Human Rights Foundation has been formed to focus on reform in the Asia-Pacific region. This year, the Kaleidoscope Human Rights Foundation will be sending a representative to the Commonwealth People’s Forum – held immediately prior to CHOGM – which culminates in a roundtable dialogue between civil society representatives and foreign ministers attending CHOGM.

However, even if we witness steps towards decriminalising homosexuality in Commonwealth countries, that still leaves 35 non-Commonwealth countries with laws criminalising consensual same-sex sexual conduct. Mechanisms such as the individual complaints system run by the UN Human Rights Treaty Committee may be useful to advance reform.

There is also the power of dialogue within diplomatic circles. It remains to be seen if Australia’s new foreign minister Julie Bishop is willing to use her position to influence foreign leaders to move towards respecting the human rights of sexual minorities.

There is a long way to go before LGBT persons in many parts of the world pass through each of the five steps necessary to achieve equality.

There are 76 countries where LGBT persons have not even completed the first step towards achieving equality. In these countries, consensual same-sex conduct is still a criminal offence attracting significant prison sentences – and in some countries, the death penalty.
**SEXUAL ORIENTATION AND SEX AND/OR GENDER IDENTITY**

This National Human Rights Action Plan focus area content from the Human Rights Law Centre draws upon, in part, the Joint Australian NGO Coalition’s fact sheets prepared for the Universal Periodic Review

A wide range of social research has found that Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Australians experience high levels of prejudice, stigma, exclusion, discrimination, abuse and hate-motivated assault. As a result, LGBTI Australians also experience higher-than-average levels of a range of mental and physical risk factors including suicide ideation, depression, and drug and alcohol abuse.

**Discrimination**

There is no Australian national law which comprehensively prohibits discrimination, harassment and vilification on the grounds of sexual orientation and gender identity. Some national laws governing workplace conditions provide some limited protection. The Australian Human Rights Commission can investigate and report on discrimination in employment but cannot enforce remedies if discrimination is proven. Australian states and territories provide varying degrees of protection. However, these laws do not protect people employed by or receiving goods and services from the Federal Government. Also, most state and territory laws allow private clubs or religious organisations to discriminate.

**Parenting laws**

Most Australian states and territories fail to extend the equal rights, responsibilities and recognition to same-sex partners seeking to have, or currently raising, children. For example, the Northern Territory, Queensland, Victoria and South Australia do not allow same-sex partners to be assessed as potential adoptive parents. South Australia does not allow the same-sex partner of a woman who has given birth through artificial reproductive technologies to be presumed to be a co-parent. New South Wales, Tasmania, South Australia, Western Australia, the Northern Territory and the Federal Government do not recognise the surrogacy arrangements entered into by same-sex partners.

**Marriage equality**

Same-sex partners cannot marry in Australia. Same-sex marriages entered into overseas are not recognised as marriages in most Australian jurisdictions. Australian citizens seeking to enter into a same-sex marriage in another country are denied the documentation required by some foreign governments before they can marry (for example, a Certificate of No Impediment to Marriage).

**Gender identity**

It is impossible for transgender people who have not undergone gender reassignment surgery to have cardinal documents such as birth certificates or passports amended to reflect their gender identity. There are no laws prohibiting sex assignment surgery on intersex children prior to them having the capacity to give consent.

**What the UN Human Rights Council recommended in the Universal Periodic Review**

In January 2011 Australia was reviewed by the UN Human Rights Council during the Universal Periodic Review (or UPR) (a process whereby the human rights performance of all UN member states is reviewed by other states). In June 2011 Australia provided its response to the 145 recommendations made by the Human Rights Council.

The Government has accepted over 90 per cent of the recommendations and has committed to incorporating the recommendations it has accepted into the National Human Rights Action Plan. In relation to sexual and gender identity rights, the Human Rights Council made a number of relevant recommendations. Australia has responded to these recommendations as set out in the following table.

<table>
<thead>
<tr>
<th>RECOMMENDATION</th>
<th>STANCE</th>
<th>EXPLANATION</th>
</tr>
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<tbody>
<tr>
<td>Continue to consolidate anti-discrimination laws protecting people on the grounds of sexual orientation and gender (recommendations 86.51, 86.66 and 86.68).</td>
<td>Already reflected</td>
<td>Australia accepts the recommendation on the basis it is reflected in existing laws or policies and Australia will continue to take steps to achieve relevant outcomes.</td>
</tr>
<tr>
<td>Equalise the recognition of same-sex relationships across and between states (recommendation 86.69).</td>
<td>Accepted</td>
<td>The Australian Government will continue to support a nationally consistent framework for relationship recognition that would need to be implemented by States and Territories.</td>
</tr>
<tr>
<td>Recognise same-sex marriage including recognising overseas marriages (recommendation 86.70).</td>
<td>Rejected</td>
<td>The Australian Government does not intend to amend the Marriage Act 1961. The Australian Government will continue to support a nationally consistent framework for relationship recognition that would need to be implemented by States and Territories.</td>
</tr>
</tbody>
</table>

This information sheet gives an overview of the new protections against discrimination on the grounds of sexual orientation, gender identity and intersex status in the Sex Discrimination Act 1984 (Cth) (SDA).

The Australian Human Rights Commission was able to accept complaints of discrimination on these grounds about things that happened on or after 1 August 2013.

What is changing?

From 1 August 2013 it has been unlawful under federal law to discriminate against a person on the grounds of their:
- Sexual orientation
- Gender identity
- Intersex status.

Same-sex couples are now also protected from discrimination under the new definition of ‘marital or relationship status’ (this was previously ‘marital status’).

The Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth) (SDA Amendment Act) inserts the new grounds into the Sex Discrimination Act 1984 (Cth) (SDA).

Most states and territories have some form of protection against discrimination on the basis of sexual orientation and gender identity. However, the SDA Amendment Act introduces more inclusive definitions and addresses gaps such as a lack of coverage for acts or practices of the federal government. It also qualifies the exemptions for religious organisations to the effect that it does not apply to conduct connected with the provision of Commonwealth-funded aged care services. It also includes the new ground of intersex status which is not covered by any other law.

It also significantly expands the protections against discrimination on the basis of sexual orientation in federal law as previously the Commission could only accept complaints of discrimination on the basis of ‘sexual preference’ in the area of employment or occupation.

Same-sex couples are now also protected from discrimination under the new definition of ‘marital or relationship status’.

When do the new protections start?

The new protections commenced on 1 August 2013. The Commission was able to accept complaints of discrimination on the new grounds that occurred on or after this date.

Who does the SDA apply to?

It is unlawful to discriminate against a person on the basis of the attributes listed above. This will particularly apply to lesbian, gay, bisexual, intersex, trans and gender diverse people.

The entities with obligations under the SDA include the Commonwealth Government, state governments and local governments (except in relation to employees of state instrumentalities), private companies, small businesses, incorporated and unincorporated bodies, educational authorities, partnerships, recruitment and employment agencies to name a few. Subject to some limited exceptions, these obligations exist regardless of the size of the entity.

When does the SDA apply?

Discrimination may be unlawful when it occurs in protected areas of public life, including:
- Employment
- Education
- Provision of goods, services and facilities
- Providing land, housing or accommodation
- Membership and activities of licensed clubs
- The administration of Commonwealth laws and programs.

What is discrimination?

Direct discrimination is treating another person less favourably on the basis of their sexual orientation, gender identity or intersex status, than someone without that attribute would be treated in the same or similar circumstances.

Indirect discrimination is imposing, or proposing to impose, a requirement, condition or practice that has, or is likely to have the effect of disadvantaging people with a particular sexual orientation, gender identity or intersex status, and which is not reasonable in the circumstances.

Some examples are provided below.

What is discrimination on the basis of sexual orientation, gender identity and intersex status?

Sexual orientation means a person’s sexual orientation towards:

a. Persons of the same sex or
b. Persons of a different sex or
c. Persons of the same sex and persons of a different sex (s 4(1)).

Some terms used to describe a person’s sexual orientation include
gay, lesbian, homosexual, bisexual, straight and heterosexual. The new
definition does not use labels, as these may be offensive or inaccurate;
however, it is intended to cover these orientations.

**Direct** discrimination may occur on
the basis of sexual orientation if an
employer refuses a promotion to an
employee after he discloses he is
bisexual.

**Indirect** – An employer’s benefits
policy which provides spousal
benefits to an employee’s husband
or wife, such as discounted travel
gym membership, may indirectly
discriminate against a lesbian
employee who has a same-sex
partner.

**Gender identity** means the
gender-related identity, appearance
or mannerisms or other gender-
related characteristics of a person (s
4(1)). This includes the way people
express or present their gender and
recognises that a person’s gender
identity may be an identity other
than male or female.

Some terms used to describe a
person’s gender identity include
trans, transgender and gender
diverse. The SDA does not use these
labels however it is intended to cover
these identities and more.

The SDA provides protection
from discrimination for people
who identify as men, women and
neither male nor female. It does
not matter what sex the person was
assigned at birth, or whether the
person has undergone any medical
intervention.

**Intersex status** means the status
of having physical, hormonal or
genetic features that are:

a. Neither wholly female nor
   wholly male or

b. A combination of female and
   male or

c. Neither female nor male. (s 4(1)).

Being intersex is about biological
variations, not about a person’s
gender identity. An intersex person
may have the biological attributes
of both sexes, or lack some of the
biological attributes considered
necessary to be defined as one or
other sex. Intersex people typically
also have a gender identity and
sexual orientation.

**Direct** – It may be direct discrimi-
nation for a physiotherapist to refuse
to treat an intersex person because
the person’s biological charact-
eristics made the physiotherapist
uncomfortable.

**Indirect** – A policy which deems
that certain medical treatment,
such as for ovarian cancer, is only
appropriate for women, might
disadvantage an intersex man
who has both male and female sex
characteristics.

The amendments also extend
the definition of marital status to
‘marital or relationship status’ which
includes de facto same-sex couples.

Discrimination on the new
grounds is unlawful in the same
circumstances as for other grounds
already covered by the SDA.

**What about the existing
protections under the SDA?**

The changes do not affect the
existing grounds (sex, pregnancy,
potential pregnancy, breast-
feeding and family responsibilities)
which will continue to operate
unchanged. Information about sex
discrimination is available on the
Commission's website.

Protection for sexual harass-
ment will continue with one
change. The sexual harassment
provisions will now include that
a person’s ‘sexual orientation,
gender identity, intersex status,
marital or relationship status’ are
now part of the circumstances
that can be taken into account
when considering whether or not
a reasonable person ‘would have
anticipated the possibility that
the person harassed would be offended,
humiliated or intimidated’.

**Are there exceptions/exemptions to unlawful discrimination?**

Yes. The SDA includes provisions
that provide that in certain circum-
stances the discrimination will
not be unlawful. These are called
either ‘exceptions’ or ‘exemptions’.
Some of the existing provisions in
the SDA will now also apply to the
new grounds.

• It will now be possible to also
take special measures to achieve
substantive equality between
people of different sexual
orientations, between people of
different gender identities,
between people who are of
intersex status and those who
are not, and between people of
different marital or relationship
statuses.

• Specific exceptions and exempt-
tions in the SDA will limit the
protection on the new grounds.
These include; for certain accom-
modation providers, charities,
religious bodies (except for
intersex status in religious educa-
tional institutions), voluntary
bodies, sport (except for sexual
orientation) and certain acts
done under statutory authority.
Whether these exceptions and
exemptions apply will depend
on the particular circumstances.
It also qualifies the exemptions
for religious organisations to
the effect that it does not apply
to conduct connected with the
provision of Commonwealth-
funded aged care services.

• The Australian Human Rights
Commission is also able to grant
temporary exemptions from
some parts of the SDA.
There are also some new exemptions introduced specifically for discrimination on the basis of sexual orientation, gender identity and intersex status:

- Anything done by a person in direct compliance with the *Marriage Act 1961* (Cth) – this could apply to persons such as Commonwealth-registered marriage celebrants and statutory bodies such as registers of births, deaths and marriages (this exemption also applies to discrimination on the basis of marital or relationship status).
- Anything done by a person in direct compliance with prescribed Commonwealth, State or Territory laws. These laws must be prescribed by regulation.
- Requests for information and record keeping in relation to sex and/or gender that do not allow for identification as being neither male nor female.

**What do the new protections mean for me?**

It means that discrimination on the basis of sexual orientation, gender identity and intersex status is unlawful. If you experience discrimination on these grounds you may want to deal with the situation yourself by raising it directly with the person or people involved.

If this does not resolve the situation, or you do not feel comfortable doing this, you can make a complaint to the Australian Human Rights Commission. Details on how to make a complaint are on this page (see Where can I get more information?).

If you are an employer, service provider, private or government organisation or otherwise covered by the SDA, the new protections mean that you may have some new obligations under the SDA.

Organisations should become familiar with the changes to the SDA and review their policies, processes and training to ensure that they do not discriminate against persons on the basis of their sexual orientation, gender identity, intersex status or their relationship status.

You may already have much of this in place in order to comply with state and territory anti-discrimination laws.

**Where can I get more information?**

The Australian Human Rights Commission's contact details are:

**Telephone**

Complaint Info line: 1300 656 419
TTY: 1800 620 241
Fax: (02) 9284 9611

If you need an interpreter you can call the Translating and Interpreting Service (TIS) on 131 450 and ask to be connected to the Australian Human Rights Commission.

If you are deaf or have a hearing impairment you can contact us by TTY on 1800 620 241. If you are deaf or have a hearing or speech impairment you can also contact us through the National Relay Service (NRS) on 133 677. If you need an Auslan interpreter, the Commission can arrange this for you.

If you are blind or have a vision impairment, the Commission can provide information in alternative formats on request.

**Post**

Australian Human Rights Commission GPO Box 5218
Sydney NSW 2001

**Online**

Email: complaintsinfo@humanrights.gov.au
Website: www.humanrights.gov.au

You can make a complaint online by going to: www.humanrights.gov.au/complaints/lodging-your-complaint

If you are thinking about making a complaint or are responding to a complaint, you might also want to consider getting legal advice, contacting your industrial organisation or other organisation that represents you.

**Disclaimer:** The information on this fact sheet is only intended as a guide. It is not a substitute for legal advice.


LGBTI organisations welcome new federal anti-discrimination protections

LGBTI human rights organisations have welcomed the commencement of federal protections on the grounds of ‘sexual orientation’, ‘gender identity’, ‘intersex status’ and ‘marital or relationship status’, according to this statement from Transgender Victoria.

The new laws mean that from 1 August 2013 LGBTI Australians, who have been discriminated against on the basis of the new protected attributes, may take their complaint to the Australian Human Rights Commission and ultimately the Federal Court.

The new laws will help address the alarmingly high levels of discrimination experienced by intersex, transgender and gender diverse people across every aspect of their lives. Advocates welcome the recognition that trans and intersex issues were uniquely addressed in this legislation.

“This Commonwealth discrimination protection will make a significant and positive impact on the daily experiences of many people. A Gender Agenda particularly welcomes the inclusive definition of gender identity and protection on the basis of intersex status,” A Gender Agenda Executive Director Peter Hyndal said.

“We welcome the full, authentic inclusion of ‘intersex status’, a biological attribute, in anti-discrimination law for the first time. We have not previously been recognised in law, and our inclusion is of huge practical benefit,” said OII Australia President Gina Wilson.

“The new law will greatly assist systemic change to improve lives and make processes easier for trans and gender diverse individuals in the case of a complaint,” added Transgender Victoria spokesperson Sally Goldner.

Victoria’s and NSW’s gay and lesbian rights lobbies also welcomed the historic commencement of these new federal protections.

“These laws will have an immediate, practical benefit for gay, lesbian, bisexual, transgender and intersex people, including protection from discrimination for the first time for federal employees and ensuring access to services such as Centrelink and Medicare on an equal footing with all other Australians,” said Victorian Gay & Lesbian Rights Lobby Convener Anna Brown.

Dr Justin Koonin, NSW Gay & Lesbian Rights Lobby Co-convener said, “These laws represent the culmination of over 25 years of advocacy, and will provide much-needed protection at a federal level to LGBTI people. Particularly significant are the reforms around aged-care service provision, which will make discrimination unlawful in any Commonwealth-funded service in the country.”

OII Australia’s Gina Wilson said, “We welcome the recognition that people born with intersex are not subject to religious exemptions, and we urge states and territories to add ‘intersex status’ to their legislation.”

In today’s announcement the Attorney-General indicated that people who take an action in direct compliance with a state or territory law would be exempt from the new federal laws, while the federal government spent the next year discussing with state governments laws that were appropriate for a permanent exemption. As part of this discussion the Attorney-General Mark Dreyfus indicated he will work with states and territories towards nationally consistent recognition of sex and gender, including in birth certificates.

“It is important to ensure that these laws provide a new national standard to protect LGBTI people from unfair treatment and harm, including using this 12-month period as an opportunity to audit outdated state and territory laws and remove the last remnants of unjustifiable discrimination from our statute books,” said VGLRL’s Anna Brown.

“A Gender Agenda notes that many existing state and territory based identity recognition provisions do not currently comply with the SDA, and urges state and territory governments to use the next twelve months to consult with key stakeholders and make appropriate amendments,” said Peter Hyndal.

“We also urge state and territory governments to amend their definitions of gender identity in line with the new federal definition to ensure simplicity and effectiveness for all parties,” added Sally Goldner.

More information about the new laws and the national complaints process can be found on the Australian Human Rights Commission Website at: www.humanrights.gov.au
GENDER RULING: HIGH COURT RECOGNISES THIRD CATEGORY OF SEX

A Sydney resident who fought to be legally recognised as being of non-specific sex has hailed a High Court ruling that New South Wales laws do permit the registration of a category of sex other than male or female. A report from ABC News

Norrie was born male but had a sex change and now does not identify as specifically male or female. After a four-year legal battle, Norrie has won the right to be legally recognised as being of non-specific sex. Norrie, who had been quietly confident of winning the case, says the historic verdict is a big win for the wider transgender community.

“I screamed a squeal of delight. Very loudly. It’s very thrilling, very exciting,” Norrie said.

“I’m overjoyed that it has happened. It’s important for people to have equal rights in society and if some people are granted the right to have their sex and certain benefits that go along with that, then why shouldn’t everyone have that right?”

“Why should people be left out because they’re not seen as male or female? They should be recognised as whatever they are and allowed to participate in society at an equal level.”

The case began in 2010 when Norrie applied for a name change and to be registered as being of non-specific sex. The registrar at first agreed, but that recognition was revoked, with the registrar arguing it was beyond the power of the law to recognise options other than male or female.

Norrie went on to challenge the decision and last year the NSW Court of Appeal found the existing law could recognise additional options.

The registrar turned to the High Court in an attempt to have that decision overturned, but today the court dismissed the appeal.

It reached the unanimous decision that the law does recognise a person may be neither male nor female.

The court ordered Norrie’s application for registration be remitted to the registrar. The registrar has also been ordered to pay Norrie’s legal expenses.

“By taking it all the way to the High Court, we now have something that’s applicable Australia-wide,” Norrie said.

“So it’s a great victory for sex and gender diverse people throughout Australia.”

The state’s Attorney-General is not commenting on the High Court decision.

A spokeswoman says the Government is considering the judgement and any legal and policy implications.

Rights commissioner welcomes decision,

Amnesty says more needs to be done

Human Rights Commissioner Tim Wilson has welcomed the decision.

“It’s quite clear that people who are intersex or transgender face very significant issues, both in the public domain and in the private domain,” he said.

“The key thing is government shouldn’t be adding to those issues by discriminating against them and telling them how to live their lives.”

But Amnesty International’s Senthorun Raj says while the High Court’s decision is promising, there is more to be done.

The court’s ruling only applies to someone, like Norrie, who has had what is commonly known as sex reassignment surgery.

Mr Raj says but it will still be difficult for people who have not had surgery to be able to formally identify as gender-neutral.

“The concern is obviously that it comes back to showing that you’ve undertaken medical or surgical treatment that you can demonstrate that you’re no longer within a male or female category in order to be considered sex-not-specified,” he said.
Gender identity recognition worldwide

Gender recognition in Australia
- In April 2014, the High Court ruled that New South Wales law recognises non-specific genders other than male or female, when Sydney resident Norrie won a case to have a third category of gender recognised.
- In 2003, Australian Alex MacFarlane was granted the right to replace the gender on his passport with ‘X’, in recognition of his intersex status.
- In Victoria, people are allowed to identify their gender as ‘indeterminate’ or leave the field blank on their birth certificates if they are intersex.
- The Department of Foreign Affairs and Trade has a similar policy which allows Australians to identify as ‘X’ on their passport with a letter from a physician or psychologist. In 2013, it revised the policy to broaden gender definitions.
- According to the Australian Government Guidelines on the Recognition of Sex and Gender released in 2013, government departments that collect personal records must allow for a person to change their gender to ‘X’ if they provide the relevant documentation e.g. medical statement and a travel document with the preferred gender.
- In 2013, the Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 was passed. This amended legislation recognised intersex people under a separate gender category to male and female.

Global recognition of alternative genders
- In November 2013, Germany became the first European country to allow babies who have both male and female characteristics to be registered as neither sex. This enabled parents to leave the gender blank in an effort to alleviate pressure on them to make early decisions about sex reassignment surgery for their child.
- A number of south-east Asian countries also recognise alternative genders, including India, Bangladesh, Nepal and Pakistan.
- In India and Bangladesh, transgender communities (known as Hijras), are given a third gender option on passports.
- In 2007, a Supreme Court of Nepal decision established a third-gender category for the country’s citizens. The 2011 census in Nepal was the first in the world to allow people to identify as a gender other than male or female.
- Pakistani transgendered people can choose from a number of genders to be included on their identity card and Nepal also allows for an alternative gender on identity cards.
- New Zealand allows applicants to use ‘X’ to represent an indeterminate gender on a passport.
- In Samoa, Fa’afafine (men raised as girls) are recognised as third-gendered people and make up an important part of the island nation’s society and culture.

Gender online
- In 2014, Facebook started allowing American users to select their gender from 56 different options and the preferred pronoun (i.e. he, she, they).

“...and you also need to be single, so obviously it doesn’t really give the same rights to people who can’t afford to or don’t want to engage in surgical procedures in order to have their sex documentation or gender documentation amended.”

Other states urged to recognise personal identification
The ACT recently passed a law recognising a third category of sex and the Commonwealth is rolling out a set of guidelines for government departments to also allow similar recognition.

Wednesday’s ruling has been hailed as a victory for the wider transgender and intersex community.

“The High Court ... has set some really important guidance for every other state and territory jurisdiction,” said Sam Rutherford from A Gender Agenda.

“We’re very glad for Norrie that a lot of years of determination and probably a lot of stress in taking her fight all the way to the High Court has finally paid off.”

Mr Rutherford says he is confident the progressive ruling will speed up change across the country.

“The High Court is the highest court that we have. They’ve made very clear indications in their judgement that people of non-binary gender identities are in the community and they need to be recognised legally,” he said.

“It will certainly be difficult for other state legislators not to pay attention to it.”

Mr Rutherford says they are particularly happy with the term ‘non-specific’.

“The High Court was really clear that [the term] needs to be as inclusive as possible, and anyone that falls outside that male-female binary needs to be recognised and non-specific is the best way to do that,” he said.

“It could be an intersex person, it could be a transgender person, it could be someone whose identity is neither male or female. But the really important thing is that it is about personal identification by that person, rather than letting the registrar make the decision.”

He says identity recognition is a fundamental human right.

“This judgement is affirming on a personal level for people,” he said.

“We’re seeing more and more people identifying as androgynous or neither male nor female, particularly younger people. So this is going to be really important for them to have this decision as a precedent.”


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WHY NORRIE’S COURT VICTORY IS A LEAP FORWARD FOR EVERYONE

Have you ever asked yourself why institutions continue to demand that we identify ourselves as male or female on every form? What difference does gender make to my bank account, to the tax office, or to the many other bureaucracies we deal with in daily life? Marian Pitts discusses

While it may only be a minor irritation for me to have to specify that I’m female, for many others it’s a constant confrontation of who they are and how they identify. But now there’s hope for change.

Many of you would have read about the case of Norrie versus NSW Registry of Births, Marriages and Deaths this morning. Norrie was born male, undertook gender reassignment surgery, but subsequently felt that neither gender matched their feelings.

High Court supports ‘non-specific’ gender recognition

Human Rights Commissioner Tim Wilson today welcomed a High Court ruling that allows a person’s sex to be registered as ‘non-specific’, according to this statement from the Australian Human Rights Commission

This welcome High Court decision confirms that government should recognise the inherent dignity of the individual and respect who people are, not try and tell them who they are. This decision is particularly important for transgender and intersex Australians. They face unique challenges and it is important that the government does not add to the load and discriminate.”

“While the decision may appear to only impact a small number of Australians, it affirms a broader universal principle that it is relevant to everyone: we should all be recognised under the law equally,” Commissioner Wilson said.

In a unanimous decision, the High Court has ruled that the Births, Death and Marriages Registration Act 1995 (NSW) recognises that a person can be neither male nor female. In effect, the NSW Registrar can register a person’s sex as ‘non-specific’.

The ruling follows an application by a Sydney resident, Norrie, who had asked the NSW Registrar in 2010 to register a name change and to record Norrie’s sex as non-specific.

In its 2009 report, Sex Files, the Australian Human Rights Commission revealed significant limitations in the way that official documents and government records recognise and record sex and gender.

The Commission recommended that the Australian Government develop national guidelines concerning the collection of sex and gender information from individuals.

The Commission also recommended that a person over the age of 18 should be able to choose to be noted as something other than male or female. This would mean that the definition of sex in relevant legislation, policies, guidelines and forms would need to include male, female or unspecified.

Protections for intersex, trans and gender diverse people in Australia gained additional support last year following the Federal Government’s release of Guidelines on the Recognition of Sex and Gender.

Those guidelines stipulate that individuals may identify and be recognised within the community as a gender other than the sex they were assigned at birth or during infancy.


Yesterday, the High Court ruled that New South Wales must allow Norrie to legally identify as having a non-specific gender. What’s telling is that in its ruling, the court pointed out that yet again the law is behind scientific facts:

For the most part, the sex of the individuals concerned is irrelevant to legal relations.

The obvious exception to this is the Marriage Act, which, in Australia, was modified in 2004 to specify that marriage is not between two people, but a man and a woman.

This anomaly led to bizarre circumstances for Jan Morris (formerly James Morris) a renowned UK author. As Jan tells in her account of her gender transition (Conundrum), James was married to Elizabeth.

When James transitioned to become Jan, he had to divorce Elizabeth because two women couldn’t be married. Nonetheless they stayed together as a couple and, entered into a civil partnership, when that became an option in the UK in 2008.

A SPURIOUS DICHOTOMY

Most people working in this field have argued that the dichotomy male/female is spurious. They point out that there’s a continuum of biological features that are used to distinguish between male and female (more or less reliably), but that there’s a significant number of people (commonly called intersex) for whom differentiation is not straightforward.

There’s a continuum of biological features that are used to distinguish between male and female, but there’s a significant number of people for whom differentiation is not straightforward.

What’s more, there are many people who don’t identify with the sex to which they were assigned at birth (transgender) at all. And even within ‘transgender’, there are some who clearly identify with their re-assigned binary, while others insist on the gender ‘trans’ in its own right.

In 2007, some colleagues and I undertook a national survey of 253 transgender people from all states and territories in Australia and New Zealand. We found clear evidence of diverse views on how these people identify and describe themselves.

Half of respondents (50.6 per cent) reported that they’d tried to amend public documentation to reflect their current gender identity and that this was crucial to their sense of personal and identity recognition.

The documents they’d tried to change included bank accounts; insurance details; birth certificate; car registration; naturalisation papers; citizenship certificates; passport; council rates; post office box details; credit cards; police security checks; driver’s licenses; superannuation; electoral details; tax file number; gun licenses; and university records.

BURRED IN BUREAUCRACY

Experiences and outcomes varied, and even within the same organisation, there appeared to be different practices, leading to different experiences and degrees of difficulty and frustration.

The organisations they’d dealt with included electoral commissions; tax offices; financial institutions (banks, credit card companies, superannuation funds); public companies such as telecommunications providers; government departments; health insurance companies; local councils; the police; post offices; and transport departments.

Those who’d been able to successfully change their documentation experienced this as affirming their gender while the inability to change their documents naturally had consequences in participants’ lives. As one said:

My bank has outright refused to stop addressing my mail as ‘Mr’ until I can provide them with either an updated birth certificate or a letter from a surgeon saying I have undergone GRS (gender reassignment surgery).

What came across most clearly was exactly this kind of irritation, frustration and distress, which resulted from dealing with the binary world of organisations (banks came in for particular criticism). Understandably, most people had a strong desire for recognition of who they were.

Norrie’s victory in the High Court means the enforced adoption of either male or female as the only way of being, or ‘doing gender’ in Australia will come under increasing scrutiny and challenge.

Norrie’s victory in the High Court means the enforced adoption of either male or female as the only way of being, or ‘doing gender’ in Australia will come under increasing scrutiny and challenge.

So well done, Norrie. With any luck, the rest of us will benefit from your persistence and avoid the unnecessary task of identifying our gender every day.

Marian Pitts is Emeritus Professor, Australian Research Centre in Sex, Health and Society at La Trobe University.

THE CONVERSATION

IT’S TIME TO DEFEND INTERSEX RIGHTS

When we can’t even define what constitutes ‘normal’, we shouldn’t be performing surgeries on infants to make them conform to gender preconceptions, writes Morgan Carpenter

The clitoris is the only part of any human body that’s purely designed for pleasure. But is too much of a good thing a bad thing?

Research on what constitutes ‘normal’ genitalia, for both men and women, is somewhat scarce — but labia reductions are becoming more common, and so a Dutch study in 2009 examined what doctors believe a normal labia looks like. It found that plastic surgeons were more likely to find larger labia minora “distasteful and unnatural, compared with general practitioners and gynaecologists”. It also found that male doctors in each of those specialties were more inclined than women doctors to recommend surgery.

A cross-party Senate Standing Committee report released last month found such evidence “disturbing”; we can’t objectively define ‘normal’. The Senate committee goes further: “Normalising appearance goes hand in hand with the stigmatisation of difference.”

The Senate Committee was investigating the medical treatment of intersex people — people who do not meet typical, biological definitions of male or female. Intersex refers to a range of at least 30 or 40 testable genetic, anatomical or hormonal types of sex difference. Intersex people, particularly those born with ambiguous genitalia, are at the pointy end of the debate about what constitutes ‘normal’.

Unlike women who undergo labia surgery, intersex infants and children can’t consent.

Germany has just created a new ‘indeterminate’ classification on birth certificates for those same children. The ACT government is considering similar proposals. They create a whole other debate about normality, autonomy and consent. Most (but not all) intersex people identify as male or female, however different our bodies look. Adults should be free to make their own identification choices, but the German law affects people before they are of an age to make that choice. It places children at risk of being ‘outed’ at school and, while surgeries continue there, it could even increase a tendency towards surgical intervention. The new classifications miss the point.

The standard medical policy in Australia has been to surgically ‘correct’ nonconforming genitalia in infancy or childhood. The aim is to make the person it belongs to appear more ‘normal’. The Senate Committee says “normalisation surgery is more than physical reconstruction. The surgery is intended to deconstruct an intersex physiology and, in turn, construct an identity that conforms with stereotypical male and female gender categories”.

These attempts to make intersex people appear normal come at a huge cost to the people concerned.

Biologist Anne Fausto-Sterling describes how “penetration in the absence of pleasure takes precedence over pleasure in the absence of penetration”. The Australian Paediatric Endocrine Group (APEG) acknowledges that post-surgical sexual function and sensation are of “particular concern”.

The parliamentary inquiry was also disturbed by the possibility that doctors might recommend ‘therapeutic’ sterilisations on the basis of cancer risk when a child’s gonads do not match the sex they are assigned. Cancer risk has often been entangled with sex assignment and social factors in decision-making processes.

OII Australia told the Senate Committee that all of its individual members have experienced some form of coerced medical intervention. Some members were not told of their diagnoses, or their parents were badered into making their children undergo normalising surgeries.
The Senate Committee has been highly critical of current practice, saying that while enormous medical “effort has gone into assigning and ‘normalising’ sex: none has gone into asking whether this is necessary or beneficial”. In calmly restrained parliamentary language, they described this as “extremely unfortunate”.

Whether too big or too small, when outcomes are contested and we can’t even define what constitutes ‘normal’, normalising surgeries on infants and children can’t be justified. Australian intersex organisations have called for such surgeries to end, and the UN Special Rapporteur on Torture has even called for such surgeries to be outlawed, along with gay conversion therapy.

The Senate Committee has accepted that the status quo is not acceptable; ‘normalising’ surgical interventions on infants should be deferred until they are of an age to give consent themselves. It recommends the development of national standards, and legal oversight of all therapeutic and non-therapeutic surgeries on intersex infants.

The Senate Committee has changed the debate on the correct treatment of intersex differences. If adopted, its recommendations will effectively protect the rights of intersex children and future adults.

Coming on the back of intersex inclusion in new anti-discrimination legislation, improved access to Medicare, and federal gender recognition guidelines, these are hugely important developments that help end the stigmatisation of difference.

We should all feel good about what we’ve got, whatever our shape or size.

**Morgan Carpenter is the president of Organisation Intersex International Australia, a community organisation that promotes human rights and bodily autonomy for intersex people.**

HOMOPHOBIA: WHAT IS IT?
A GUIDE FROM WORKING IT OUT, TASMANIA’S GENDER, SEXUALITY AND INTERSEX STATUS SUPPORT AND EDUCATION SERVICE

Definitions of homophobia
The following are three different, but similar, definitions of homophobia which represent the generally accepted meaning of the term.

- A psychological term coined by psychologist George Weinberg in 1972, refers to an irrational fear or hatred of homosexuality, usually in others but also in oneself (internalised homophobia – see personal homophobia below).
- Any action, attitude, or behaviour that discriminates against or unfairly limits same-sex attracted people because of their sexuality (e.g. preventing a same-sex attracted person from bringing their partner to social functions.)
- Any fear or loathing of homosexuality, homosexual people, lesbian, gay and bisexual identity, and refers to the values and behaviours which express this fear and loathing.

Types of homophobia
It is important to understand the different types of homophobia if we are to effectively address homophobic discrimination. Homophobia can take many forms including:

Personal (internalised) homophobia
This is the individual’s belief that lesbian, gay and bisexual people are sinful, immoral or inferior to heterosexuals, or incomplete as women or men. Such views are always learnt, and they may be shared by lesbian, gay and bisexual people themselves. In this case the homophobia is internalised. When a lesbian, gay or bisexual person has internalised the belief that they are sinful, immoral or inferior they may hide their sexuality, try to make it mean less to them, decrease their expectations of life, or engage in behaviours which are harmful to themselves and others.

Interpersonal homophobia
This is the dislike, fear or hatred of people who are lesbian, gay or bisexual. This dislike, fear or hatred may be expressed through name-calling, verbal or physical harassment or acts of discrimination. Interpersonal homophobia can be acted out through shunning, ostracism or low level harassment. But it can also be manifested through verbal and physical assault. Surveys in NSW and Victoria have found that a high percentage of lesbian, gay and bisexual people experience verbal and physical assault at some stage in their lives.

Cultural homophobia
This refers to social standards and norms which dictate that being heterosexual is better than being lesbian, gay or bisexual. These standards and norms are reinforced each day in television shows, movies and print advertisements where virtually every character is heterosexual and every sexual and social relationship involves a female and a male, or in the assumption made by most adults that all children will eventually be attracted to and marry a person of the opposite sex. Often heterosexuals do not realise that these standards exist, while lesbian, gay and bisexual people are acutely aware of them. This results in lesbians, gays and bisexuals feeling like outsiders in society.

Institutional homophobia
This refers to the many ways in which government, business, churches and other organisations discriminate against people on the basis of their sexual orientation.

These organisations set policies, allocate resources and maintain unwritten standards for the behaviour of their members or constituents which discriminate.

Am I homophobic?
All of us – gay and heterosexual – are socialised into a society in which the idea that homosexuality is inferior to heterosexuality is common.

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is inferior to heterosexuality is common. Regardless of how we identify sexually, most of us grow up thinking in ways that are prejudiced and homophobic. It is only when our ideas are challenged that we become aware of our assumptions. If people are never challenged it is easy for them to assume heterosexuality is the only ‘natural’ or ‘normal’ sexuality. The good news is that prejudice is learnt and can be easily unlearnt.

In day-to-day life, the following are examples of homophobic behaviours and attitudes many of us are guilty of:

- Thinking you can ‘spot one’
- Using words like ‘poof’, ‘dyke’, ‘fag’, ‘gay’, ‘lezmo’ etc as an insult
- Thinking that a same-sex attracted friend is trying to ‘pick you up’, if they are friendly towards you
- Not being supportive of a same-sex attracted friend when they break up with their partner
- Making unnecessary or rude comments about, or feeling repulsed by public displays of affection between same-sex partners
- Feeling that gay, lesbian, bisexual and transgender people are too outspoken about civil rights
- Assuming that everyone you meet is heterosexual
- Assuming that a lesbian is just a woman who couldn’t find a man or that a lesbian is a woman who secretly wants to be a man
- Assuming that a gay man is just a man who couldn’t find a woman or that a gay man is a man who secretly wants to be a woman
- Assuming bisexual people are confused or want to ‘play the field’
- Not confronting a homophobic remark for fear of being labelled as gay.

Is it homophobia or heterosexism?

Although homophobia is commonly used to express the full range of anti-LGBT thought and behaviour, as a term it can be seen as problematic. A phobia is an irrational fear that causes one to avoid contact with that which is feared. Expressions of hatred toward LGBT people, however, are seldom completely irrational or inexplicable, and often result in targeting rather than avoiding behaviour.

Anti-LGBT bigotry, like other forms of prejudice, is a learned and deliberate condition. Framing prejudice as a phobia pathologises it and removes responsibility from those who hold prejudices for altering their attitudes and behaviour.

Framing prejudice as a phobia pathologises it and removes responsibility from those who hold prejudices for altering their attitudes and behaviour.

Moreover, homophobia is most often equated with individual discrimination or acts of violence – a homophobic football coach, for example, or a homophobic attack in the park – that are disconnected from most people’s experiences or images of themselves. The use of these terms rarely inspires us to reflect upon the more subtle forms of anti-LGBT prejudice for which we are all culpable, or anti-LGBT discrimination as a shared societal problem rooted in social values and institutions.

When describing incidents of discrimination or harassment against LGBT people, then, it may be more precise to use the terms anti-LGBT bias or hate acts. And when discussing the belief, held by so many, that homosexuality is ‘wrong’ or ‘less than’, it may be more accurate to use heterosexism.

Heterosexism can be understood as an overt or tacit bias against non-heterosexuals based on a belief in the superiority of heterosexuals and the notion that homosexuality is psychologically, spiritually, or morally wrong.

Since this type of intolerance is frequently levelled against those perceived to be lesbian or gay due to gender expression that transgresses societal norms, the word heterosexism – though not a replacement for homophobia – is a broader term that does not necessarily imply the loathing the latter term suggests, and which can describe seemingly more benign attitudes and behaviour based on the belief that heterosexuality is the norm.
FAQ ABOUT HOMOPHOBIA

Information about homophobic harassment and your rights, from No To Homophobia

A colleague at work keeps asking me why I “became gay”, to the point where it is uncomfortable and insulting. For example, he asked if I thought I could be gay because my parents separated, or because of a bad experience in my childhood. I don’t think he intends to be insulting or to make me uncomfortable, I think he is genuinely curious. Should I tell him how his behaviour is affecting me?

What is homophobia?

Homophobia is an attitude or belief system that is prejudiced against people based on their actual or perceived homosexual or bisexual orientation/activity, or transgender or intersex status.

Homophobia was first coined in the 1960s as a psychological term. In this instance it referred to a ‘phobia’ – an intense, irrational fear-reaction toward the presence of homosexual people or toward the homosexual identity and activity in general. Since the 1970s however the term homophobia has been used to refer to individual and social prejudice towards people who do not conform to heterosexual identity and behaviour or who do not conform to normative ideas as to what it is to be a man or a woman. In turn, homophobia is an attitude or belief system that takes seriously the perception that homosexuality, bisexuality, and transgender identity are in severe ‘opposition’ to, or are a ‘threat’ to heterosexuality and to notions as what it is to be a ‘real’ man or ‘real’ woman. This perception of ‘opposition/threat’ is at the end of the day a prejudiced, negative response to the simple fact that some of us live different lives. This website uses the term ‘homophobia’ as an over-arching term for three forms of sexual prejudice; prejudice toward same-sex attracted people (homophobia), prejudice towards same and opposite sex attracted people (biphobia), and prejudice toward transgendered people (transphobia).

What is harassment?

Harassment is behaviour that threatens or torments a person or group. This may come in the form of verbal abuse, physical and verbal intimidation, humiliation, exclusion, insult, threat, violence and physical harm. Harassment can be persistent or a one off incident. It can also be intentional or unintentional. Regardless of whether it is a one off incident or ‘unintentional’, harassment is harassment and is punishable by the law.

What is homophobic harassment?

Homophobic harassment is conduct that humiliates, intimidates, insults, excludes, silences, or harms an individual or group on the basis of their actual or perceived homosexual orientation. In the case of this website ‘homophobic harassment’ also refers to conduct that humiliates, intimidates, insults, excludes, silences, or harms an individual or group on the basis of their actual or perceived bisexual orientation, activity, or identity (biphobic harassment). As well as conduct that humiliates, intimidates, insults, excludes, silences, or harms an individual or group on the basis of their actual or perceived transgender identity (transphobic harassment).

What is biphobic harassment?

Biphobic harassment is conduct that humiliates, intimidates, insults, excludes, silences, or harms an individual or group on the basis of their actual or perceived bisexual orientation, activity, or identity.

What is transphobic harassment?

Transphobic harassment is conduct that humiliates, intimidates, insults, excludes, silences, or harms an individual or group on the basis of their actual or perceived gender identity.

Why is homophobia wrong?

Homosexuality, bisexuality, and transgender identity are all legitimate forms of identification and human experience. Under the Victorian Charter of Human Rights and Responsibilities, everyone has the right to freedom, respect, equality and dignity based on their inherent humanity. Being homosexual, bisexual, or transgender does not make one less human in any way or form. Everyone, gay, straight, bi, trans, has a human right to be seen, heard and happy members of our society. Homophobia is wrong because it denies these people these basic human rights.
What are the effects of homophobic harassment?

Homophobic harassment has many negative effects upon individuals, groups, and society at large. For individuals it can cause mild to severe depression, anxiety, self-loathing, and insecurity. It can lead to rejection by family and friends, and exclusion from workplaces, venues, or social groups. Homophobia makes it difficult for people to accept and express their sexual identity (‘coming out’) and is also seen as the leading cause for the higher rate of suicide for GLBTIQ people than for heterosexual people.

Homophobia damages relationships between GLBTIQ people and the wider social community. By marking GLBTIQ people as inferior, homophobia may unwittingly put pressure on straight people to demonstrate aggression or rejection toward GLBTIQ people. It may limit the avenues available to GLBTIQ to develop their skills and to contribute to important decision-making. It may also have negative effects on relationships between heterosexual people; for example, where showing (non-sexual) affection or support for someone of the same sex may be misread as being ‘gay’.

Homophobia alienates people. It exacerbates the differences between ‘straight’ and ‘gay’ at the expense of the many similarities. It asks that the GLBTIQ community be silent, and suppresses important, alternative perspectives regarding gender identity and sexuality, and life in general from being heard, let alone understood. It alienates, dehumanises, and most of all, makes it difficult for us to appreciate true human diversity and to acknowledge the complexity of human experience.

What is a homosexual person?

A homosexual person is someone who is attracted to people of the same sex as themselves. In this case, a homosexual man is attracted to other men, and a homosexual woman is attracted to other women. This attraction can be either romantic or sexual or both ...

It is possible to differentiate between homosexual action and homosexual identity. In other words, just because a man may have sex with another man does not mean that he will necessarily identify as homosexual, or as gay. He may rather identify as straight ...

In this case homosexuality for some people may simply be their attraction to members of the same sex, rather than a form of sexual identity. Yet this is not the only way to view homosexuality. The expression of an individual’s, or a group’s, sexual orientation can appear in society in many forms.

Take heterosexuality for example. The expression of heterosexuality moves far beyond a man and a woman in a bedroom. For example, when a boy and girl ‘break up’ on television, heterosexuality is expressed. When a woman is asked by her friend about her husband, heterosexuality is expressed. It is much the same for homosexuality.

What is a bisexual person?

A bisexual person is someone who is attracted to people of the same sex as well as people of the opposite sex. Their attraction is not necessarily 50/50, and they may see their attraction to either one or both sexes as being fluid or changeable over time. Many people, gay, straight, and otherwise; commonly misinterpret bisexuality as indecision, a phase, or a denial of one’s ‘actual’ homosexuality or heterosexuality. Such interpretation undermines the experiences, feelings, relationships, and the identity of bisexual people. Fluidity in one’s sexual orientation is not indecision, it is simply fluidity, and that is a legitimate form of sexual expression and identification.

What is a transgender person?

A transgender person is someone who identifies with a gender that is not the one they were necessarily born with. For example, a transgender person born with the body of a male may identify as a woman, or a transgender person born with the body of a female may identify as a man. In this sense, their gender identity and their body do not necessarily match in regard to social expectations (see gender identity/gender conformity). A transgender person therefore may or may not then start a process to change their appearance in order to match their body with the gender they identify with. This may take the form of wearing clothes normally assigned to the gender they identify with, or may take the form of changing the physical body through hormone replacement and surgery.

‘Being transgender’ therefore, may refer to a spectrum of experience and appearance. A person with a body that is clearly female may identify as a man – they are ‘transgender’. That same person may then change their body, behaviour, and dress to both indenify and look like a man – they are ‘transgender’. Some people who fall under the category of transgender may not wish to indentify as only a man or only a woman. They may feel that neither category fully articulates their identity or experience. This is a legitimate stance in regard to gender identity and experience. The perception that one can/should only be either a ‘man’ or a ‘woman’ is exactly that, a perception. Transgendered people are showing us the limitations to everyday gender expectations, and are paving the way for new forms of identification.

What is gender identity?

Gender identity is a term used to describe the ways we identify ourselves with our gender; namely, how we identify as being a ‘man’ or ‘woman’. Gender is different to the term sex. The term sex relates to the anatomical status of being either a male or female, of having either a male or female body given to us at birth. The term gender on the other hand relates to the different set of expectations that are then placed onto male and female bodies. For example, if you are born into a male body (sex) then more often than not it is expected that you act like a man (gender). Gender, therefore, is the day-to-day action of being a man or being a woman. It is the ongoing role or performance that we are expected to play from

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Sexual Orientation and Gender Identity

Issues in Society | Volume 378
birth – an infant boy is dressed in blue, a teenage girl puts on make up, a young man is not expected to cry easily, an old woman is expected to know how to nurse a child, and so on and so on. Due to the intensity and pervasiveness of social expectations that dictate ‘who should act like a man and who should act like a woman’ most people identify their gender in accordance to their sex. In other words, most people with female bodies identify as a woman and most people with male bodies identify as a man. Yet, this is not necessarily the case all the time. For more information see – gender conformity/transgender.

What is gender conformity?

Gender conformity refers to the different sets of expectations placed on men and women regarding behaviour, attitude, identity, social roles, and dress, and how the majority of people endeavour to meet these expectations. For example, you are walking down the street and you notice a man wearing a skirt. There are hundreds of other men walking around, but you notice him because he is the only one wearing a skirt. You notice him because he is different; he is not wearing what all the other men are wearing. In all, you notice him because he is not conforming to a highly detailed set of expectations as to what it is to ‘dress like a man’, and thus, of what it is to ‘be a man’. The fact that he is may be the only man you have seen that day, that year, or perhaps even ever walk down the street wearing a skirt proves that by and large the vast majority of men conform to expectations of what it is to ‘dress like a man’, and thus, of what it is to ‘be a man’. This is just one example of gender conformity.

Do I have to approach the person who is harassing me or the person I know directly?

Whether or not you or the person you know approaches the person making the harassment is entirely up to whether you or they feel comfortable and safe to do so. If you/they do not feel safe to do so, or if you/they think it will exacerbate the situation negatively then perhaps consider some of the other options outlined in the Take Action section of the No To Homophobia website.

However, whilst it is to be expected that a certain level of discomfort will arise when considering doing this, if you do feel it would be an appropriate option to resolving the situation we encourage you to give it a go. Sometimes people do not realise that what they are doing is harassing and telling them how it is effecting your life can often be enough to stop the harassment. It is also possible when considering this option to bring a friend or someone you feel is good in these situations to approach the harasser with you. This is not to bully the harasser, rather to ensure that you feel as comfortable as possible and so that your friend may ensure you get your message across clearly should you feel it hard to do so on your own.
Recognition of same-sex relationships

Same-sex de facto couples and their families now have the same entitlements as opposite-sex de facto couples and their families according to this guide from the Department of Social Services

Removing discrimination

The Government’s same-sex law reform package passed through Parliament in November 2008. The reform removed discrimination against same-sex de facto couples and their families in areas such as taxation, superannuation, social security and family assistance, the Pharmaceutical Benefits Scheme Safety Net and the Medicare Safety Net, aged care, veterans’ entitlements, immigration, citizenship and child support and family law.

For more information on the same-sex law reform package go to the Attorney-General’s Department website, www.ag.gov.au

Same-sex couples now receive the same entitlements, are assessed in the same way, and have the same obligations, as opposite-sex couples.

Equal treatment

The changed laws mean some same-sex couples and their families are now entitled to receive benefits previously not accessible.

Entitlements may include:
- Partner concession card benefits
- Bereavement benefits if a partner dies
- Exemption of the family home from the assets test when one partner enters nursing home care and the other partner continues to reside there
- Recognition as independent for Youth Allowance if in a same-sex relationship for over 12 months
- Lesbian relationships recognised as a qualifying relationship for Widow Allowance
- War Widow or widowers pension
- Access to the Child Support Scheme
- Access to the Pharmaceutical Benefits Scheme and Medicare safety nets as a family
- Allowing private sector superannuation trustees to make same-sex couples and their children eligible for reversionary benefits
- Enabling reversionary benefits from Commonwealth (defined benefit) superannuation schemes to be conferred on same-sex partners and the children of same-sex relationships
- Tax concessions.

Some same-sex couples and their families may have their benefits reduced to the same entitlements received by opposite-sex couples and their families in the same circumstances.

Social security and family assistance

From 1 July 2009 changes to social security and family assistance legislation mean that all couples are recognised, regardless the gender of a partner.

Same-sex couples now receive the same entitlements, are assessed in the same way, and have the same obligations, as opposite-sex couples.

Social security and family assistance payments may be affected depending on individual circumstances and the type of payment received. Most payments are assessed based on the combined income and assets of both partners.

If you are in a same-sex relationship and are living together, or usually live together as a same-sex couple you need to advise Centrelink or the Family Assistance Office. If you don’t advise Centrelink your entitlements might be overpaid and will have to be repaid.

The Centrelink Financial Information Service (FIS) is a free, confidential service that can help you make informed financial decisions. FIS officers can provide information over the phone, at personal interviews, and through financial education seminars held in a range of locations across Australia. To find out more go to the Department of Human Services website, www.humanservices.gov.au

Centrelink social workers are also available to provide counselling, support and referral services as needed. To speak to a Centrelink social worker call 13 17 94 or...
to make an appointment to see a social worker at your local DHS Service Centre go to Department of Human Services website, www.dhs.gov.au

**Dad and Partner Pay**

Dad and Partner Pay is a new payment under the Australian Government’s Paid Parental Leave scheme. It’s now available to eligible working dads or partners (including adopting parents and same-sex partners) who care for a child born or adopted from 1 January 2013.

It provides up to two weeks of government-funded pay at the rate of the National Minimum Wage (currently about $606 per week before tax). For more information go to the Department’s website, www.dss.gov.au

**Child support**

If you are a parent, or non-parent carer, and have children from a previous same-sex relationship you may be eligible for child support.

If you have a child from a previous same-sex relationship you must take reasonable action to obtain child support to get more than the base rate of Family Tax Benefit Part A for that child. If you do not take reasonable action, you may have to repay some of your Family Tax Benefit Part A.

For more information go to the Child Support section of the Department of Human Services, www.humanservices.gov.au/customer/dhs/child-support

**Frequently asked questions**

What is a member of a couple for social security and family assistance purposes?

A person is regarded a member of a couple if they live with (or usually live with) their partner, and are either:

- Married
- In a registered relationship (opposite-sex or same-sex)
- In a de facto relationship (opposite-sex or same-sex)
- What is a registered relationship?
- What is a defacto relationship?
- What are the factors that are considered when assessing members of a couple?

For more information and answers to these questions go to the Department of Human Services website, www.dss.gov.au


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**THE CASE FOR SAME-SEX MARRIAGE**

**Australian Marriage Equality** presents a list of arguments in favour of introducing same-sex marriage into Australian federal law

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**Why allow same-sex marriages?**
- The failure of the law to allow same-sex marriages sends out the message that it is okay to discriminate on the grounds of sexual orientation and gender and that same-sex partners are not capable of the level of love and commitment associated with marriage.
- Marriage creates a unique bond between partners and their families from which same-sex partners are excluded.
- Marriage provides health and wellbeing benefits, and security for partners and children, from which same-sex partners and their children are excluded.
- Marriage will benefit from being seen as less discriminatory and more relevant.
- Polls show about 60% of Australians support marriage equality and 75% believe it is inevitable. Surveys show 80% of same-sex partners support the right to marry and 55% would marry if they could.

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**Isn’t current recognition enough?**
- Same-sex partners can legally be considered de facto partners. But only a marriage certificate gives instant and guaranteed access to relationship entitlements. It is also much more widely recognised and respected than de facto status.
- Civil unions are not as widely understood or respected as marriage and creating a separate name for same-sex relationships entrenches a different, discriminatory, second-class status for these relationships.

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**What about religion and marriage?**
- In our society marriage is governed by civil law and not by biblical values, for example we allow marriage between people of different faiths or no faith. We also allow divorce although some churches are against it. Using the religion argument against same-sex couples is a double-standard.

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**Children raised by same-sex couples are just as well adjusted, psychologically, sexually, intellectually and socially as their peers.**
- Some Christian churches currently solemnise same-sex marriages and are discriminated against because the Government doesn’t recognise these marriages in the same way it recognises the opposite-sex marriages performed in other churches.
- Religious celebrants are free to refuse to marry couples whose relationship they don’t agree with and this freedom will remain when marriage equality is achieved.

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**What about the children?**
- The law does not say married opposite-sex couples must have children. This is why we allow infertile couples to marry. Using the infertility argument against same-sex couples is a double-standard.
- As many as 25% of same-sex couples are raising children. By allowing parents in these families the right to marry we are providing their children with the same rights, respect and recognition as other children.
- The Australian Psychological Society has found that children raised by same-sex couples are just as well adjusted, psychologically, sexually, intellectually and socially as their peers.

---

**Will marriage equality change or diminish marriage?**
- It will remove discrimination from marriage in the same way discrimination was removed when interracial couples were allowed to marry in the 1960s.
- The rules governing marriage have changed many times, for example, wives are no longer treated as the property of their husbands, we now prohibit rape in marriage, and we allow divorce. But the basic definition of marriage as a lifelong commitment between a loving couple has not changed and will not change.
- In countries which allow same-sex couples to marry, marriage still exists, no opposite-sex marriages have been harmed, and the rates of younger heterosexual people marrying has actually increased.
- Incestuous and polygamous relationships have not been legitimised in any of the many countries that allow same-sex couples to marry.

---

**What can you do to support marriage equality?**
- Please send a letter to your local MP saying you support marriage equality. Include your personal story about why marriage equality is important to you. Make it clear to your local MP that civil unions are not a substitute for marriage equality. Go to Australian Marriage Equality’s webpage to send a letter to your local MP: [www.australianmarriageequality.com](http://www.australianmarriageequality.com)

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HIGH COURT THROWS OUT ACT’S SAME-SEX MARRIAGE LAWS

After being married for less than a week, same-sex couples who wed in the ACT will have their unions annulled after the High Court ruled against the laws.

A report by Elizabeth Byrne and staff at ABC News

The High Court unanimously ruled that the ACT’s laws were inconsistent with the Federal Marriage Act, and were therefore unconstitutional.

The ruling is a victory for the Commonwealth, which had launched the appeal against the laws.

But Craig Berry and his partner Ulises Garcia, who were among 31 couples who tied the knot on Saturday, are saddened by the ruling.

After five days, their marriage will be annulled.

“We’re sad, but as far as I’m concerned my love for Uli hasn’t changed, we’re still married as far as we’re concerned,” Mr Berry said.

“We have the certificate and we’re not letting go of that and we’re not letting go of the special day we had on Saturday.

“I’ll still call Uli my husband. All of my friends as far as they’re concerned we’re married. We’re no different to them.”

The ACT had argued that its laws could sit beside the federal legislation because it had defined a different type of marriage between same-sex couples.

The High Court delivered its decision early to give certainty to those wanting to use the law, but said it might be some time before a full judgement was released.

It said any change to the Marriage Act must come from the Federal Government.

“The Court held that the Federal Parliament has power under the Australian Constitution to legislate with respect to same-sex marriage, and that under the Constitution and federal law as it now stands, whether same-sex marriage should be provided for by law is a matter for the Federal Parliament,” the court said in a summary of its judgement.

“The Marriage Act does not now provide for the formation or recognition of marriage between same-sex couples.

“Because the ACT Act does not validly provide for the formation of same-sex marriages, its provisions about the rights of parties to such marriages and the dissolution of such marriages cannot have separate operation and are also of no effect.”

“The Court held that the whole of the ACT Act is of no effect.”

SAME-SEX COUPLES SAY NEW RULING ONLY A MATTER OF TIME

Despite Thursday’s ruling, Mr Berry says it is only a matter of time before same-sex marriage is recognised federally.

“We will get there, there will be a day when [same-sex marriage] is recognised nationally and it’s just a matter of time,” he said.

“When that time comes I’ll be happy to say ‘I do’ all over again.”

Mr Berry says he and Mr Garcia chose to get married on Saturday to celebrate their love.

“To take advantage of that opportunity that we had to get married and to, at least for those five days, to be recognised for what we are two people in love who want to spend our lives together,” he said.

“It was five days but it was a wonderful five days and it just brings the message yet again to the public’s attention.”

Michelle Stockwell and Anabel Scholes also married in the ACT on Saturday and say the High Court ruling will not change things for them.

“We are quite disappointed that it hasn’t gone
through now, but we’ve got our piece of paper, as far as we’re concerned we are married and we shall be for life,” they said.

“If we have to renew our vows then we can have another party.”

Ivan Hinton and his partner Chris were also married on Saturday. Ahead of the High Court’s decision Mr Hinton said they do not regret a thing.

“The amazing thing for us, the unexpected thing for us is the community,” he said.

“The love that we’ve received from Canberra – and this is something that regardless of what happens here in the High Court – it was a celebration in this past week.

“We’ve been pulled up in the streets. We’ve been shaken by the hand, congratulated by people that we’ve never met before.”

CHRISTIAN LOBBY HAPPY WITH RULING

But there were plenty of people who welcomed today’s High Court decision, with protesters and couples coming face to face outside the court.

Lyle Shelton from the Australian Christian Lobby told ABC’s 7.30 that he wants a referendum to kill off same-sex marriage once and for all.

“If you redefine marriage you’re saying yes to the proposition that it’s okay for some children to be denied their natural mother and father,” he said.

“I think that’s an injustice.”

He says same-sex couples should give up on marriage.

“They’ve pretty much exhausted all avenues through the democracy and the courts and I think it’s time to move on,” he said.

Federal Attorney-General George Brandis says irrespective of people’s views on same-sex marriage, it is in Australia’s interests to have a nationally consistent marriage law.

He says he is pleased the High Court has taken that position today.

“The Commonwealth welcomes this decision. The basis upon which the decision was reached by their honours was the supremacy of the marriage power in section 51.21 of the constitution,” he said.

GREENS TO KEEP FIGHTING FOR SAME-SEX MARRIAGE

Greens leader Christine Milne says the High Court’s decision is a blow for same-sex couples, but her party will ensure that same-sex marriage laws are introduced nationwide.

“What the court has decided has made it very clear that the Federal Parliament has the power to legislate for marriage equality,” she said.

“I want to say to those couples and to the whole Australian community that the Greens are going to make sure we have marriage equality in this country.

“It’s devastating for the people concerned and for their families and friends, but it is also a clarion call for everyone in the country who supports marriage equality to now put pressure on the Federal Government and the Federal Parliament to change it.”

Greens Senator Sarah Hanson-Young added: “We will win this fight. Love will win, and it will be in this place in the Federal Parliament.”

Meanwhile, constitutional lawyer Anne Twomey says one good thing about today’s verdict is that it sends the issue back to the Federal Parliament.

She says that is where it should be decided.

“I think most people would not want to turn our system into the American Supreme Court where all decisions on social issues are ending up in the High Court,” she said.

“It’s much better that the elected representatives of the people are the ones who get to decide on those sorts of issues.

“That’s the appropriate forum for this, not the High Court.”

In a glitch, High Court staff accidentally posted the judgement online before midday, 15 minutes before the ruling was due to be handed down in the Court.

The judgement appears to have been removed and then reposted.

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EXPLORING ISSUES

WORKSHEETS AND ACTIVITIES

The Exploring Issues section comprises a range of ready-to-use worksheets featuring activities which relate to facts and views raised in this book.

The exercises presented in these worksheets are suitable for use by students at middle secondary school level and beyond. Some of the activities may be explored either individually or as a group.

As the information in this book is compiled from a number of different sources, readers are prompted to consider the origin of the text and to critically evaluate the questions presented.

Is the information cited from a primary or secondary source? Are you being presented with facts or opinions?

Is there any evidence of a particular bias or agenda? What are your own views after having explored the issues?

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DISCUSSION ACTIVITIES 54
MULTIPLE CHOICE 55-56
Brainstorm, individually or as a group, to find out what you know about sexual orientation and gender identity.

1. What is gender identity?

2. What does LGBTI stand for?

3. What are the differences between homosexuality and bisexuality?

4. What are the differences between transgender and intersex people?
Complete the following activity on a separate sheet of paper if more space is required.

A friend emails you in confidence to say that they think they might be gay, and that they are worried about what their parents and other friends will say. They also mention that they are scared that they may be bullied and discriminated against by other people.

Write a reply which includes ideas on where they can find further information on coming out and who they can turn to for support and advice. Include relevant information on discrimination.
Homosexuality is not acceptable in many countries around the world. In some 76 countries, discriminatory laws criminalise private, consensual same-sex relationships – exposing individuals to the risk of arrest, prosecution, imprisonment – and even, in at least five countries, the death penalty.

Form pairs or small groups to discuss why homosexuality should be accepted by law. In your discussion, include examples of countries which currently accept homosexuality and refer to the legal protections they have in place which recognise and accept diversity in people’s sexual orientation.
Complete the following multiple choice questionnaire by circling or matching your preferred responses. The answers are at the end of the next page.

1. In what year was the *Sex Discrimination Act* amended to prohibit discrimination on the grounds of sexual orientation, gender identity or intersex status?
   a. 1954
   b. 1984
   c. 2004
   d. 2010
   e. 2011
   f. 2013
   g. 2014

2. In what year did the UN Secretary-General Ban Ki-moon deliver a landmark speech on LGBT equality in New York?
   a. 1954
   b. 1984
   c. 2004
   d. 2010
   e. 2011
   f. 2013
   g. 2014

3. In what year was the *Marriage Act*, in Australia, modified to specify that marriage is not between two people, but between a man and a woman?
   a. 1954
   b. 1984
   c. 2004
   d. 2010
   e. 2011
   f. 2013
   g. 2014

4. In what year did Australia’s High Court rule that the *Birth, Death and Marriages Registration Act* (NSW) recognises a person as neither male or female, enabling a person to register their sex as ‘non-specific’?
   a. 1954
   b. 1984
   c. 2004
   d. 2010
   e. 2011
   f. 2013
   g. 2014

   a. 1954
   b. 1984
   c. 2004
   d. 2010
   e. 2011
   f. 2013
   g. 2014
6. Match the following terms to their correct definitions:

1. Cultural homophobia  
   a. The dislike, fear or hatred of people who are lesbian, gay or bisexual. This can be acted out by shunning, ostracism or low level harassment, but can also be manifested through verbal and physical assault.

2. Transphobia  
   b. The fear or hatred of people who are transgender or transsexual. It can manifest in numerous ways, including violence, harassment, and discrimination.

3. Heterosexism  
   c. The social standards and norms which dictate that being heterosexual is better than being lesbian, gay or bisexual. These can be reinforced in television shows, movies, advertisements, etc.

4. Internalised homophobia  
   d. An individual’s belief that lesbian, gay and bisexual people are sinful, immoral or inferior to heterosexuals, or incomplete as women or men.

5. Social discrimination  
   e. The fear or hatred of a person who is attracted to people of more than one gender identity.

6. Biphobia  
   f. When people who are, or are perceived as, lesbian, gay, bisexual, transgender or intersex suffer from social stigma, exclusion, and bias at work, at home, at school, in health care institutions and many other aspects of their lives.

7. Interpersonal homophobia  
   g. The assumption that most people are heterosexual and those who aren’t are abnormal or deviant.

MULTIPLE CHOICE ANSWERS

1. Cultural homophobia  
2. Transphobia  
3. Heterosexism  
4. Internalised homophobia  
5. Social discrimination  
6. Biphobia  
7. Interpersonal homophobia
In different cultures other terms may be used to describe people who form same-sex relationships and those who exhibit non-binary gender identities (such as hijra, meti, lala, kesana, moutsoale, mithli, kuchu, kawein, travesty, muxé, fa'afafine, fakaleiti, hamjensgara and Two-Spirit). (p.3)

Many of the criminal laws used today to punish LGBT people are Western in origin, and in most cases, were imposed on the countries concerned in the 19th Century by the colonial powers of the day. (pp. 4, 26)

LGBT people have always been a part of our communities. There are examples from every locality and time-period, from prehistoric rock paintings in South Africa and Egypt to ancient Indian medical texts and early Ottoman literature. (p.4)

Many societies have traditionally been open towards LGBT people, including several Asian societies that have traditionally recognised a third gender. (p.4)

Some Aboriginal and Torres Strait Islander peoples use the term sistergirl (sometimes Yimpininni in the Tiwi Islands) to describe male-assigned people who live partly or fully as women. In some regions, sistergirls have unique societal roles. (p.5)

The Bugis society of Sulawesi, Indonesia recognises five distinct genders. (p.5)

Some people with non-binary genders prefer to be described as ‘zie’. Zie (pronounced zee) is an English pronoun used instead of ‘she’ or ‘he’. (p.6)

A number of studies looking at human sexuality state that up to 1 in 10 people are same-sex attracted – others indicate higher figures, and some lower. (p.8)

The lowest popular statistic regarding the number of intersex people is around 1 in 2,000 people (.05% of births) but a more likely figure is closer to 1.7%. This makes intersex differences about as common as red hair. (p.12)

Hermaphrodites (such as snails) possess fully functioning sets of both ‘male’ and ‘female’ sex organs. This is impossible in mammals. (p.12)

The eugenic treatment of lesbians and gays in the past included surgeries such as castration, hysterectomy, vasectomy and lobotomy. (p.14)

When compared with heterosexual people, homosexual and bisexual people are twice as likely to experience anxiety (31.5% compared with 14.1%) and 3 times as likely to experience depression and related disorders (19% compared with 6%). (p.19)

In an Australian study, 61% of young non-heterosexual people reported experiencing verbal abuse and 18% reported physical abuse. (p.19)

A study in the US found that non-heterosexual women were more than 3 times as likely to have generalised anxiety disorder than heterosexual women. (p.19)

Studies of bisexual people consistently show that they have even higher rates of depression or depressive symptoms than homosexual people. (p.19)

A 2007 survey of Australian and New Zealand transgender people found that almost 90% had experienced at least one form of stigma or discrimination. (p.19)

A survey of LGBTI Australians found that around 60% of intersex people reported having depression and about 70% of intersex males and 85% of intersex females had seen a counsellor or psychiatrist during the previous 5 years. (p.19)

In December 2010, UN Secretary-General Ban Ki-moon delivered a landmark speech on LGBT equality in New York calling for the worldwide decriminalisation of homosexuality and for other measures to tackle violence and discrimination against LGBT people. (pp. 20, 25)

Freedom of expression is threatened in parts of Eastern Europe and Africa by a series of laws and draft laws intended to prohibit “public promotion of homosexuality”. (p.24)

In at least 76 countries, discriminatory laws criminalise private, consensual same-sex relationships, exposing millions of individuals to the risk of arrest, prosecution and imprisonment – and even, in at least 5 countries, the death penalty. (pp. 26, 28)

The death penalty is the legally prescribed punishment for homosexuality-related offences in Iran, Mauritania, Saudi Arabia, the Sudan, Yemen, and may be applied by religious courts in regions of Somalia and Nigeria. (p.26)

In recent years, many countries have endeavoured to further criminalise homosexuality, including Uganda, Liberia and Nigeria, with increasing instances of active enforcement. (p.28)

41 of the 54 Commonwealth states still criminalise homosexuality, including neighbours of Nauru, Papua New Guinea, Samoa, the Solomon Islands, Malaysia, Singapore, and Sri Lanka. (p.28)

Same-sex partners cannot marry in Australia. Same-sex marriages entered into overseas are not recognised as marriages in most Australian jurisdictions. (p.30)

It is impossible for transgender people who have not undergone gender reassignment surgery to have cardinal documents such as birth certificates or passports amended to reflect their gender identity. (p.30)

In 2014, Sydney resident Norrie won a case in the High Court of Australia recognising a third category of gender. (pp. 35-36, 37-38)

The Marriage Act in Australia was modified in 2004 to specify that marriage is not between two people, but a man and a woman. (p.38)

Polls show about 60% of Australians support marriage equality and 75% believe it is inevitable. Surveys show 80% of same-sex partners support the right to marry and 55% would marry if they could. (p.48)
GLOSSARY

Asexual
A person who does not have a sexual orientation and is not sexually attracted to anyone.

Bisexual
A person who is attracted to people of the same sex as well as people of opposite sex. Their attraction is not necessarily 50/50, and they may see their attraction to either one or both sex as being fluid or changeable over time.

Biphobia
The fear or hatred of a person who identifies as bisexual or attracted to people of more than one gender identity. Biphobia can come from both heterosexual and gay and lesbian communities.

Coming out
This is when a LGBTI person feels ready to tell their family and friends about their sexual identity. This can be a big step, especially as people fear negative reactions to their announcement. Therefore it is not unusual for someone to not be ‘fully out’ and only tell a select few people.

Gender
Refers to the way in which a person indentifies or expresses their masculine or feminine characteristics. Gender is generally understood as a social and cultural construct. A person's gender identity or gender expression is not always exclusively male or female and may or may not correspond to their sex.

Gender diverse
A term used to describe people whose gender expression differs from stereotypical expectation.

Gender expression
Refers to the way in which a person externally expresses their gender or how they are perceived by others.

Gender identity
Refers to a person's deeply held internal and individual sense of gender.

Gender identity disorder
Also known as gender dysphoria. This is the formal diagnosis used by psychologists and physicians to describe people who experience significant discontent with the sex they were assigned at birth and/or the gender roles associated with that sex.

Genderqueer
Refers to a blurring of the lines around gender identity and sexual orientation. Genderqueer people typically reject notions of static categories of gender and embrace a fluidity of gender identity and sexual orientation.

Gender reassignment
Also known as sex reassignment surgery. This involves changing a person's physical appearance to become their desired gender of choice. The includes altering their external gender organs and hormonal balances.

Heterosexism
An overt or tacit bias against non-heterosexuals based on a belief in the superiority or, sometimes, the omnipresence of heterosexuality and the notion that homosexuality is psychologically, spiritually, or morally wrong.

Heterosexual
A person who is attracted to people of the opposite sex to themselves. It is often referred to as being ‘straight’.

Homophobia
The fear or hatred of people who are attracted to the same sex as themselves (e.g. disliking lesbians, gay men and bisexuals). Homophobia can take many forms including; internalised, interpersonal, institutional and cultural.

Homosexual
A person who is attracted to members of the same sex as themselves. It also refers to an individual’s sense of identity. The most common terms for homosexual people are gay for men and lesbian for women, although gay can be used to refer to men and women.

Intersex
Refers to people who have genetic, hormonal or physical characteristics that are not exclusively ‘male’ or ‘female’. A person who is intersex may identify as male, female, intersex or as being of indeterminate sex.

LGBTI
An internationally recognised acronym which is used to describe lesbian, gay, bisexual, trans and intersex people collectively. Many sub-groups form part of the larger LGBTI movement.

Misgendering
A term used for describing or addressing someone using language that does not match how that person identifies their own gender or body.

Pansexual
A person who is attracted to people of all gender identities and biological sexes.

Sexual orientation
Refers to a person's emotional or sexual attraction to another person, including, amongst others, the following identities: heterosexual, gay, lesbian, bisexual, pansexual, asexual or same-sex attracted.

Sex
Refers to a person's biological characteristics. A person's sex is usually described as being male or female. Some people may not be exclusively male or female (see 'Intersex'). Some people identify as neither male nor female.

Trans
Also known as transgender. This is a general term for a person whose gender identity is different to their sex at birth. A trans person may take steps to live permanently in their nominated sex with or without medical treatment.

Transphobia
The fear or hatred of people who are transgender or transsexual. It can manifest in numerous ways, including violence, harassment, and discrimination.
Websites with further information on the topic

A Gender Agenda  http://genderrights.org.au
ACON  www.acon.org.au
Anti-Discrimination Board of NSW  www.antidiscrimination.lawlink.nsw.gov.au
Anti-Violence Project  http://antivilence.info
Free & Equal  www.unfe.org
Gay & Lesbian Rights Lobby  http://gllr.org.au
Gay & Lesbian Switchboard  www.switchboard.org.au
Gender Spectrum  www.genderspectrum.org
Living Proud  www.livingproud.org.au
National LGBTI Health Alliance  www.lgbthealth.org.au
No to Homophobia  www.notohomophobia.com.au
Organisation Intersex International Australia  http://oii.org.au
Tasmanian Gay & Lesbian Rights Group  www.tllrg.org
The Gender Centre  www.gendercentre.org.au
Transgender Victoria  http://transgender/victoria.com
Twenty10 incorporating GLCS NSW  www.twenty10.org.au
Victorian Gay & Lesbian Rights Lobby  www.vglrl.org.au
Zoe Belle Gender Centre  http://gendercentre.com

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