

The Human Rights of LGBTIQ+ People in Finland

This NGO report presents some of the most urgent questions regarding LGBTIQ+ people's human rights in Finland. The report focuses on the lack of comprehensive LGBTIQ+ policy, the lack of adequate measures concerning discrimination and hate crimes, situation of LGBTIQ+ youth and families and issues specific to trans and intersex people. The report is submitted by Seta – LGBTIQ+ Rights in Finland, Dreamwear Club, Transfeminines, Trans ry, Trasek, Isio, Families of Trans Children and Youth and Rainbow Families Finland.

Many of the concerns raised in this contribution are linked to the rights of the child, regarding the rights of LGBTIQ+ children and youth and the rights of children living in LGBTIQ+ families.

1. Promoting Fundamental and Human Rights of LGBTIQ+ people

There is a lack of comprehensive policy on LGBTIQ+ people's human rights in Finland.

Legislation and protection are improved sporadically and often through civil society

pressure or initiative. In 2021 the Ministry of Justice actually published a report on the implementation of fundamental and human rights of LGBTIQ+ people but the LGBTIQ+ action plan recommended in the report has not been initiated.

A comprehensive action plan, covering all relevant areas of life is needed for protection of the rights of LGBTIQ+ people. The LGBTIQ+ Action Plan must include the necessary legal reforms and concrete policy measures. An intersectional approach is essential. The plan must name the responsible authorities, be sufficiently resourced and its implementation must be monitored.

Recommendation to the Government:

- Establish a comprehensive action plan for protection of the fundamental and human rights of LGBTIQ+ people in Finland. Sufficient resources must be allocated for the implementation of the plan. The action plan must identify responsible authorities and the implementation of the plan must be monitored.

2. Promoting Non-Discrimination and Combatting Hate Crime

In Finland people who experience discrimination on ground of their sexual orientation, gender identity, gender expression or sex characteristics only rarely report it to any instance.

The Non-discrimination Act prohibits discrimination on grounds of age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relationships, state of health, disability, sexual orientation and other personal characteristics. For LGBTIQ+ people the Non-Discrimination Act provides for the protection from discrimination explicitly on the ground of sexual orientation. Discrimination on grounds of gender, gender identity and gender expression (also sex characteristics) is prohibited explicitly by the Act on Equality between Women and Men.

The Non-Discrimination Ombud reports c. 10- 20 cases/year regarding sexual orientation discrimination and the Equality Ombud reports of only few cases where the person contacting has belonged to gender minorities even though **experiences of discrimination are common**.

According to the EU Fundamental Rights Agency's (FRA) reportⁱⁱ:

- 14 % of Finnish LGBTI people have experienced discrimination in working life (within the previous 12 months)
- 31 % of Finnish LGBTI people have experienced discrimination in public places, cafes, restaurants, hospitals or shops.
- Altogether 32 % had experienced harassment within the previous 12 months.
- Only 8 % of those who had experienced discrimination had reported it to any instance.

According to the FRA report reasons for not reporting discrimination included inter alia:

- Incidents being so common that people felt it was not worth reporting
- Believing that reporting would not change anything
- Concern over not being taken seriously
- Not wanting to disclose one's LGBTI identity
- Not knowing who to report to
- Being too distressed by the incident to be able to report it

A similar trend of **significant underreporting can be noticed about hate crime experienced** by LGBTIQ+ people. In 2019 72 hate crime cases with a bias related to sexual orientation or gender identity were reported to the police. Within the time period 2015-2019 the number of such cases has varied between 57 and 73.ⁱⁱⁱ

In contrast c. 140 (n = 4711) Finnish LGBTIQ+ people responding to the FRA survey carried reported experiencing physical or sexual violence within the last year. Only 23 % on Finnish respondents said that they had reported latest such incident to any instance.

Reasons for not reporting hate motivated violence included inter alia the incident was considered too minor or reporting did not even occur as an option, thinking that they could not do anything about it, not trusting the police and fearing a negative reaction for being LGBTIQ+, feeling shame or embarrassment about the incident.

Significant underreporting of discrimination and hate crimes indicates that LGBTIQ+ people are lacking an effective access to justice. The Non-Discrimination Act and the Act on Act on Equality between Women and Men are currently under reform.

LGBTIQ+ people are not sufficiently featured in national systems for collecting data on Finnish society. Since high quality public policy needs to be knowledge-based, the situation of LGBTIQ+ people should be examined in a cross-cutting manner in general surveys on health issues, attitudes and opinions. **There is a need for more systematic data collection and comparable research in different areas of life, especially health-related issues.** The data collection and research should also have an intersectional approach. The vulnerable situation of trans and intersex people also needs to be monitored to examine if any actions taken to improve the situation have been well advised or whether the collected information has led to taking the necessary actions.^{iv} Since new data collection methods are currently developed by researchers^v, national system of collecting data must take these advancements into account.

Recommendations to the Government:

- Ensure that after the legislative reform a) the Non-Discrimination Ombud will be able to bring a case concerning discrimination to the National Non-Discrimination and Equality Tribunal also without an identifiable victim b) the Non-Discrimination Ombud will have a mandate to assess work place discrimination and c) the National Non-Discrimination and Equality Tribunal will be able to award compensation to victims of discrimination.
- The Law on the Equality between Men and Women must be reformed so that it includes an explicit obligation to promote equality also on grounds of gender identity and gender expression and sex characteristics (as opposed to only preventing discrimination on these grounds).
- Provide law enforcement officials systematic training on hate crimes against LGBTIQ+ persons and on investigating them. Training is also needed to properly collect adequate data on hate crimes.
- Strengthen dialogue and cooperation between the police and LGBTIQ+ organizations to enhance trust towards the police and remove barriers from reporting incidents.
- Data collection development and research about LGBTIQ+ people's lives must be included in the comprehensive action plan for protection of the fundamental and human rights of LGBTIQ+ people (see Chapter 1).

3. LGBTIQ+ Children and Youth

According to 2019 School Health Promotion study^{vi}, **there is an urgent need to find effective solutions to factors affecting the health and well-being of sexual or gender minorities youth (LGBTIQ+ youth).**

According to the study LGBTIQ+ youth (13-16 years) experience bullying and violence both in school and outside more often than their peers who do not identify as LGBTIQ+:

- 15-25% of children aged 13-16 who identified as LGBTIQ+ reported being bullied at school weekly.
- 23-26% of children aged 13-16 had been subjected to physical violence and 40-45% to psychological violence by their parents or caregivers.
- 41-46% of them had experienced sexual harassment.

For respondents who did not identify as LGBTIQ+, the figures were much lower: bullying 6%, physical violence by parents or caregivers 12%, psychological violence by parents or caregivers 28%, sexual harassment 21%. In the study gender minorities accounted for 3% respondents and sexual minorities for 9% respondents.

LGBTIQ+ youth were more often dissatisfied with their lives and were lonelier than other young people. LGBTIQ+ youth reported that their health was average or poor twice as often as other young people. Anxiety levels were as much as three times higher among them. Depression symptoms were also more common. They also felt they more rarely received help from parents or friends to their mood-related problems.

LGBTIQ+ youth told twice as often about need for counselling on relationships and sexuality than other young people. Comprehensive and inclusive sex education and counselling would benefit all, including LGBTIQ+ youth.

All students, including LGBTIQ+ students, have the right to attend schools that are safe for them. LGBTIQ+ youth felt much less often that they were part of a school community and they felt more often that the school environment was inadequate and unsafe for them. Experiences of loneliness were more common among them. More than half of LGBTIQ+ youth had

problems with their learning skills, and absences and school fatigue.

Recommendations to the Government:

- Ensure that ^{vii} equality and non-discrimination plans ^{viii} in schools address discrimination on grounds of sexual orientation, gender identity, gender expression and sex characteristics and promote LGBTIQ+ equality. Assure that the plans include concrete tools for countering discrimination. Implementation of such plans must be regularly monitored.
- In-service training to teachers and other school personnel on how to promote gender-sensitive education and create supportive school environments for all students, including LGBTIQ+ youth, must be provided. Similar training must be included in the teacher training curricula.
- Strengthen LGBTIQ+ youth's access to LGBTIQ+ sensitive low-threshold services in environments where young people spend time. Pay special attention to addressing LGBTIQ+ youth's vulnerability to different kinds of violence, including family violence, sexual violence and harassment and homelessness. Assure that child protection services have competence to address the needs of LGBTIQ+ children and youth. Establish targeted LGBTIQ+ support where necessary.
- Ensure that LGBTIQ+ children and youth have timely access to low threshold mental health services that are LGBTIQ+ sensitive.
- Include projects to address LGBTIQ+ person's mental health inequalities in the National Mental Health Strategy and Programme for Suicide Prevention 2020–2030.
- Ensure that young LGBTIQ+ persons have access to LGBTIQ+ sensitive and inclusive comprehensive sexuality education and counselling on relationships and sexuality.

4. Bodily Integrity of Intersex Children

The **right to bodily integrity and self-determination of intersex children is not fully respected** in Finland. This can have significant negative impact on their well-being.

The study “No information or options: the rights and experiences of intersex people in Finland” conducted as part of the National Action Plan on Fundamental and Human Rights (2017-2019) was published in 2019^{ix}. According to the study young intersex children are still subjected to non-vital medical operations aimed at “normalising” the sex characteristics of the child. Parents of intersex children are not well-informed about the consequences for the child and children are not heard during the process. Intersex children and their parents are not provided with non-medicalised and non-stigmatised information about the diversity of the sexes and variations of sex characteristics. Intersex children and their parents also lack access to sufficient psychosocial support and peer support.

When performed without medical necessity, informed consent and/ or adequate information, such treatments to “normalise” a child's sex characteristics violate children's right to physical bodily integrity. The treatments can also have long-term or irreversible consequences on intersex persons sexual and reproductive health and well-being.

The current Programme of the Government (2019-) states that “intersex children's right to self-determination will be strengthened, and cosmetic, non-medical surgeries on young children's genitals will no longer be performed”. The same aim is repeated in the governmental Gender Equality plan 2020-2023. However, so far no progress has been made^x. The working group set by the Ministry of Social Welfare and Health to reform the Trans Act (March 2021) could address the issue but so far the working group has not recommended to prohibit these practices by law.

Recommendations to the Government:

- Enact a law that prohibits any non-vital surgeries or other medical interventions performed to ‘normalise’ children’s sex characteristics without the child’s informed consent. With the exception of situations where a child’s health is at immediate risk, no interventions aiming to modify sex characteristics should be performed until the child is capable of making an independent decision on the matter.
- Provide clinical practice guidelines for the healthcare of intersex children that take full account of the child’s best interests and rights to participate in making decisions concerning their treatment in accordance with their age and maturity, in keeping with the obligations of the Convention on the Rights of the Child.
- Guarantee access to psychosocial support and peer support for intersex people and their parents.
- Offer adequate, non-medicalised and non-stigmatised information regarding variations of sex characteristics and the diversity of human sexes for intersex people and their parents.
- Assure that persons subjected to “sex-normalising” interventions have access to effective remedies.

5. Access to Gender Affirming Health Care and Legal Gender Recognition

The Trans Act is under reform in Finland. A preliminary draft of the law has been published. The Government plans to remove the infertility requirement as a prerequisite of legal gender recognition, to separate the legal gender recognition process from medical gender reassignment) and to introduce an easier legal gender recognition process which would be based on self-determination (removing the requirement for psychiatric diagnosis). All of these changes are important to carry out.

However, there is a severe concern about the Government’s unwillingness to strengthen the rights of minors: according to the preliminary draft of the law legal gender recognition would continue to be available only to adults.

The national school health survey results prove that LGBTIQ+ youth experience significantly poorer health and have more often experienced violence than their peers. Experiences of bullying and physical threats are especially common for gender minority youth. Trans children and youth are an especially vulnerable group and needs special protection.

Access to legal gender recognition would enhance trans children and youth’s right to privacy and protect them from discrimination and violence. Reform of the legislation on legal gender recognition needs to pay full attention to the special challenges and needs of trans children and youth.

The current legislation (Trans Act) on legal gender recognition interlinks the process of legal gender recognition with access to gender affirming health care (gender reassignment treatment)^{xi}. This has left many of trans/non-binary specific health care issues unaddressed. A major obstacle to assessing gender affirming health care are the delays in accessing treatment. Another problem concerns the on-going pathologisation of trans and non-binary identities.

A recent report (2022)^{xii} provides new information on the availability of gender affirming treatments. 544 people who had requested or received gender affirming treatment in 2010-2012 responded to the survey. According to the survey, almost all respondents wanted

gender affirming treatment but 40% of them had been left without treatments at least for the time being. The survey confirms that besides transgender people, i.a. non-binary people need access to gender affirming treatment.

According to the report, the majority of respondents have experienced at least some barriers or delays in accessing treatment. **The most common barriers to accessing gender affirming treatments were mistrust of health care professionals, life situation, financial barriers and lack of information.** Those who did not have transgender diagnosis experienced the most obstacles. Respondents with poor financial status also had more barriers to accessing care. The importance of economic situation for access to gender affirming treatment should be further explored.

For about 40% of the respondents, the process phase lasted 1-2 years and for about 25% of them ½-1 years. **Some respondents answered that the process took 4-10 years.** Respondents' experiences with health care personnel and services varied: some had received a sensitive and responsive service and some had been treated inappropriately. Respondents valued transparency, openness, flexibility and speed in treatment processes.

In 2020 the Council for Choices in Health Care in Finland (COHERE Finland) published guidelines for treating gender dysphoria experienced by trans and non-binary persons. **The guidelines are outdated and do not take into account the depathologisation of trans and non-binary identities adopted in the International Classification of Diseases version 11 (ICD-11).** The guidelines fail to remove barriers to gender affirming treatment. Instead, the guidelines rather restrict access by instating discriminatory requirements linked to other health issues, gender identity (lower level of care for non-binary persons) and age (cautioning health care for minors). The guidelines also promote basic healthcare as the primary instance of care for gender dysphoria. This is contrary to the principle that a person should always at their request get a referral to the specialist unit.

Recommendations to the Government

- Ensure access to “quick, transparent and accessible” legal gender recognition procedure which is based on self-determination and protects bodily integrity and privacy of those who seek it. Remove unnecessary waiting or reconsideration periods from the legal gender recognition process.
- Taking fully into account best interests of the child as a primary consideration and respect for the child's right to express their views in accordance with age and maturity, make sure that legal gender recognition is available to minors.
- Ensure timely access to gender affirming treatment for all who need it by removing obstacles to accessing treatment. Conduct a systematic review of the service system to ensure that gender affirming treatment is based on de-pathologisation of trans and non-binary identities as according to ICD-11 and be in line with international standards of trans and non-binary care.
- Provide obligatory in-service training about gender diversity to all medical and health care staff.

6. Legally Recognizing All Parental Relationships of a Child

Finland does not recognize parental relationships of a child and all their parents, when the number of parents exceeds two. This leads to legally unrecognized parent-child relationships in families, where parenthood is shared between more than two parents. These situations are found in LGBTIQ -families, foster families, certain adoptive families, and stepfamilies. As a result of lacking legal recognition, the child's inheritance right, right of access and right to receive alimony are compromised.

The Finnish Government has pledged in its governmental program for 2019-2023 to complete a legal reform of parental legislation. This reform is now in the final stages of the legislative process, but it has failed to consider the situation of children with more than two parents.

Recommendation to the Government:

- Finland should change its parental act and the act of adoption so that it would be possible for a child to have more than two legal parents, when the best interest of the child thus requires.

ⁱ Kohti sateenkaariystävällisempää Suomea: Tilanearvio seksuaali- ja sukupuolivähemmistöjen perus- ja ihmisoikeuksien toteutumisesta Suomessa 2021. Oikeusministeriön julkaisuja 2021:26. Ministry of Justice 2021. (In Finnish) https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163566/OM_2021_26_SO.pdf

ⁱⁱ See: https://fra.europa.eu/sites/default/files/fra_uploads/LGBTIQ+-survey-country-data_finland.pdf

ⁱⁱⁱ Rauta, Jenita, Poliisin tietoon tullut viharikollisuus Suomessa (Hate crimes reported to the police in Finland in 2019), Poliisiammattikorkeakoulun kustauksia 6/2020, page 55. https://www.theseus.fi/bitstream/handle/10024/345708/Po-lamk_katsaus_16_Viharikos_B5_web.pdf?sequence=1&isAllowed=y

^{iv} Data collection on LGBTIQ+ people in Finland – results: recommendations Round table discussion Ministry of Justice. REC Project “Know Equality”. https://yhdenvertaisuus.fi/documents/5232670/95855137/Yhdenvertaisuus_HLBTI_infolehtinen_A5+%E2%80%93_eng.pdf/35da8f34-9b3d-54a6-5e32-7c1c8166b3c0/Yhdenvertaisuus_HLBTI_infolehtinen_A5+%E2%80%93_eng.pdf?t=1640940207680

^v See: <https://williamsinstitute.law.ucla.edu/publications/data-collection-sogi/>

^{vi} Satu Ojala et al: Sukupuoli- ja seksuaalivähemmistöihin kuuluvien nuorten hyvinvointi: Kouluterveyskyselyn tuloksia 2019. Työpaperi: 2020_38. THL 2020. (in Finnish, a summary in English available) <https://www.julkari.fi/handle/10024/140742>

^{vii} In Finland schools up to university level are almost exclusively funded and administered by the municipalities. Teachers follow state curriculum guidelines.

^{viii} Equality and non-discrimination planning is mandatory in schools. (Act on Equality between Women and Men and Non-discrimination Act)

^{ix} Tikli Oikarinen: Ei tietoa eikä vaihtoehtoja; Selvitys intersukupuolisten ihmisten oikeuksista ja kokemuksista. Selvityksiä ja ohjeita 2019:3. Ministry of Justice 2019. (in Finnish. A Summary in English available) https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/161410/OMSO_3_2019_Ei_tietoa_eika_vaihtoehtoja.pdf

^x Also National Advisory Board on Social Welfare and Health Care Ethics recommended in 2016 to end these medical practices but the recommendation has not had any effect.

^{xi} In Finland core services are provided by the national health care system. Care is based on two Transgender Health Programs in two University Hospitals (Helsinki and Tampere).

^{xii} Samuel Salovaara 2022: Sukupuolen korjaushoitojen saatavuus Suomessa. Seta, Sukupuolen osaamiskeskus, Trasek ry, Transfeminiinit ry, Trans ry, Translasten ja -nuorten perheet ry 2022. (in Finnish) <https://setary.sharepoint.com/Setafitiedostoalue/Forms/AllItems.aspx?id=%2FSetafitiedostoalue%2FKysely%20hoitojen%20saatavuudesta%2FSetan%20raportti%20transhoitoihin%20p%C3%A4%C3%A4syn%20es-teist%C3%A4%20Salovaara%202022%2Epdf&parent=%2FSetafitiedostoalue%2FKysely%20hoitojen%20saatavuudesta&p=true>