

INFORMATION SHEET

Frequently Asked Questions: Sexual orientation, gender identity and intersex status in the Pacific

What does “LGBTI” mean?

LGBTI stands for “lesbian, gay, bisexual, transgender and intersex”. The language and terminology used to describe LGBTI people is in constant transition and there are various concepts and acronyms used depending on context, culture and location within the Pacific region and countries.

What is “sexual orientation”?

Sexual orientation refers to a person’s physical, romantic or emotional attraction towards others. Everyone has a sexual orientation. Heterosexual or “straight” people are attracted to individuals of a different sex from themselves. Gay men and lesbian women are attracted to individuals of the same sex as themselves. Bisexual people may be attracted to individuals of the same or different sex. Sexual orientation is not the same as 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 biological sex assigned at birth. For transgender people, there is an inconsistency between their sense of their own gender and the sex they were assigned at birth.

What does transgender mean?

Transgender describes a wide range of identities whose appearance and characteristics are perceived as gender atypical, hence not falling into the categories of what is considered “female” or “male” behaviour. Transwomen identify as women but were classified as males when they were born (typically born with male genitalia). Trans-masculine (or transmen) identify as men but were classified female when they were born (typically born with

female genitalia). Some transgender people seek surgery or take hormones to bring their body into alignment with their gender identity; others do not.

In a number of Pacific countries, there are local cultures that allow persons assigned to the male sex at birth to identify as women. Many agree that the term ‘transgender’ is often a too narrow concept to embrace the full-lived experiences in the Pacific cultures. The fa’afafine of Samoa, American Samoa and Tokelau, the leiti of Tonga, the fakafifine of Niue, the pinapinaaine of Tuvalu and Kiribati, the vakasalewalewa of Fiji, the palopa of Papua New Guinea, and the akava’ine of the Cook Islands are diverse gender identities that existed long before the Pacific was colonized and they are important parts of the cultural treasure of the region

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 people experience the same range of sexual orientations and gender identities as everyone else.

What are homophobia and transphobia?

Homophobia is an irrational fear of, hatred or aversion towards lesbian, gay or bisexual people; transphobia is an irrational fear, hatred or aversion towards transgender people. These forms of prejudice and stigma targeting LGBTI people are based on ignorance and misinformation, and they are often overcome when we get to know people who are LGBTI and see that they are unique human beings just like everyone else.

Does international human rights law apply to LGBTI people?

Yes, it applies to all human beings. 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.

Is it a human rights violation to criminalize homosexuality?

Yes. States have the legal obligation under international human rights law to safeguard the human rights of all persons, regardless of sexual orientation, gender identity or intersex status. Criminalizing private sexual relationships between consenting adults, whether the relationships are same-sex or different-sex, is a violation of the right to privacy and a form of discrimination. In addition to violating basic rights, this criminalization legitimizes hostile attitudes towards LGBTI people, feeding stigma, violence and discrimination in areas such as education, employment, housing and health care.

Eight of the Pacific countries criminalize same-sex relations. Due to these laws, which were introduced by the European colonizers in the 19th century, people perceived to be LGBTI are at risk of arrest, violence, extortion and other rights violations for engaging in private, consensual same-sex relationships.

How does homophobic and transphobic bullying affect the right to education in the Pacific?

The right to education is enshrined in various international treaties and commitments agreed to by Governments throughout the Pacific. Bullying and violence in and around schools can violate this right by affecting attendance, participation and completion of education of those affected, and the quality of learning and school life more broadly. Bullying and violence also undermine other fundamental rights to health, safety, dignity and freedom from discrimination. While potentially any learner can be affected, those who are different from the majority are most likely to be singled out for abuse. In particular,

students who are, or who are perceived to be, LGBTI tend to be disproportionately affected.

Do LGBTI people in the Pacific have the same access to health care as others?

Stigma and discrimination are serious obstacles to health care among LGBTI people in the whole region. In addition, in the countries where sexual relations between people of the same sex are criminalized, LGBTI in many circumstances run the risk of health care providers not respecting their confidentiality, as well as being exposed to blackmail, extortion or abuse. This also hampers efforts to halt the spread of HIV/AIDS and other sexually transmitted by deterring LGBTI people from coming forward for testing and treatment for fear of revealing criminal activity.

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 stigmatize LGBTI 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" 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".

Is decriminalization of same-sex relations the same thing as recognizing same-sex marriage?

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What kind of human rights violations are LGBTI people exposed to in the Pacific?

Pacific islanders of all ages who are perceived to be LGBTI suffer from human rights violations. Transgender women are especially vulnerable to abuse, even by the police. There have been reports in the region of punitive rape of women perceived to be lesbian. Homophobic and transphobic bullying in schools denies young people safe access to education and often lead to students dropping out of school. A disproportionate number of LGBTI youth commit suicide due to physical and psychological abuse. These issues often result in LGBTI people not being able to reach their full potentials with reduced access to health care, education and stable employment keeping them from being integrated members of their societies. Many LGBTI associations find it exceedingly hard to be officially recognized. In Fiji, the only officially registered LGBTI organization has done so by registering as a company rather than an NGO..

What can we do to improve the situation of LGBTI people in the Pacific?

We can help to improve attitudes by showing open support to LGBTI people and speak out when we see homophobic and transphobic behavior. Request that Governments adopt anti-discrimination laws that protect people against discrimination based on sexual orientation and gender

identity, and adopt measures to raise awareness of human rights protection of LGBTI people among police, health care personnel, teachers and other key professions. It is also vital that all youth have access to age-appropriate comprehensive sexuality education that includes issues related to sexual orientation, gender identity and expression and intersex status 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 LGBTI people to feel isolated, depressed, forcing many to drop out of school and contributing to higher rates of suicide.

Where can I turn if I have been exposed to homophobic or transphobic discrimination?

Across the Pacific, there are local, national and regional groups and associations that work to promote the human rights of LGBTI people. Fiji and Samoa also have national human rights institutions who work to monitor human rights violations. In cases of grave human rights violations where State actors are involved, such as arbitrary arrest and detention by the police, or where the State is not willing to protect the rights of individuals, you can alert the UN human rights special procedures by sending an email to urgent-action@ohchr.org, copying pacific@ohchr.org.

The Pacific UN Free & Equal campaign is a joint initiative of OHCHR, UNDP, UN Women, UNAIDS, UNESCO, UNV, WHO, IFAD, the EU Delegation for the Pacific, the US Embassy in Fiji, the French Embassy in Fiji, the Asia-Pacific Forum, DIVA for Equality, the Pacific Sexual Diversity Network and ILGA Oceania, as well as a number of national partners across the Pacific.

For more information about the UN Free & Equal campaign, visit: www.unfe.org. Please follow the Pacific UN Free & Equal campaign on Twitter ([@Pacific_UNFE](https://twitter.com/Pacific_UNFE)) and on Facebook (www.facebook.com/pacific.free.equal).

Legal situation and commitments of Pacific governments related to LGBTI equality

| Country | Laws on same sex conduct | Laws against discrimination based on sexual orientation and gender identity | Commitments undertaken by accepting the recommendations of the UN Universal Periodic Review |
|--------------------------------|---|--|--|
| Cook Islands | Illegal | None | |
| Fiji | Legal (since 2010) | Constitutional ban of discrimination based on sexual orientation and gender identity | Counter discrimination of LGBTI people |
| Kiribati | Illegal | None | |
| Republic of Marshall Islands | Legal (since 2005) | None | Adopt laws against discrimination based on sexual orientation and gender identity. |
| Federated States of Micronesia | Legal | None | Adopt laws against discrimination based on sexual orientation and gender identity. |
| Nauru | Illegal | None | Decriminalize same-sex relations; prevent discrimination on the basis of sexual orientation and gender identity. |
| Niue | Legal (since 2007) | None | |
| Palau | Legal (since 2014) | None | Combat discrimination based on sexual orientation or gender identity |
| Papua New Guinea | Illegal | None | |
| Samoa | Illegal | Laws ban discrimination in employment based on sexual orientation | Repeal laws that restrict human rights based on sexual orientation or gender identity. |
| Solomon Islands | Illegal (including female same sex conduct) | None | Decriminalize consensual adult sexual activity. |
| Tonga | Illegal | None | Prevent discrimination on the basis of sexual orientation and gender identity. |
| Tokelau | Legal (since 2007) | None | |
| Tuvalu | Illegal | None | |
| Vanuatu | Legal (since 2007) | None | Counter discrimination based on sexual orientation |