

Gender Demographic Series

Best practice recommendations
for multi-country work.

Where can a question about non-binary gender be asked?

Introduction

ESOMAR believes that it is important to move away from binary data collection approaches in any market *where it is both legally and socially acceptable to do* so to ensure that Market Research is both inclusive and responsive to changes in society.

As there are substantial differences across geographies, cultures, age groups and subsets of the population on this topic, ESOMAR is collecting information on where it would be possible to take such an approach.

Below is a *non-exhaustive* summary of information collected from market research experts, national associations and other sources regarding countries which provide for a third option for either sex or gender on official documents (i.e. a third-gender option is a legal right). This list does not include countries such as Thailand, which has a significant number of people whose assigned sex is male who identify and live as female but does not offer a third-gender option in legal documentation.

The designation of sensitive data varies by jurisdiction and asking a detailed gender question might include a data subject's sexual orientation or habits. If this is the case, local laws may require that the data be protected at the highest possible level from unauthorised access to safeguard the privacy of an individual and/or other measures. *

This document includes a *non-exhaustive* list of countries where a non-binary approach *would not* be advisable. As there is limited information available about the acceptance of non-binary genders in different countries, the list includes countries where it is not legal to have a same-sex relationship as well as other countries where feedback or research has indicated a non-binary approach may not be advisable. This document also indicates where the national association has issued guidance about collecting data on sex and gender.

The acceptance of asking about gender in a non-binary way varies significantly from country to country and within certain demographic groups. Although the topic is becoming more widely accepted, it's clear that in some cultures and countries, this is not yet the case and asking about gender in a non-binary way might not be accepted at all or could breach local privacy rules or laws. There are some countries, for example, in Western Europe and North America, where a non-binary question is readily accepted and even expected. However, this would not be appropriate in other parts of the world, including many countries in the Middle East and Africa and some in Eastern Europe.

ESOMAR has put together a non-exhaustive list of countries where the feedback received demonstrates that it is not yet acceptable to ask the non-binary question in these countries. This is changing rapidly, and this list was correct to the best of our knowledge at the beginning of 2023. However, it should be noted that although expectations are that it will become more widely accepted to ask the non-binary question, there is a possibility that some countries may be added back onto this list due to local regime changes or laws. This list is not exhaustive, and there may be other countries where it may still be culturally unacceptable to ask, especially among some parts of the population, so local knowledge should be sought for guidance.

ESOMAR welcomes up-to-date information from readers and this should be sent to professional.standards@esomar.org.

Which countries provide a third option for either sex or gender on official documents such as a passport, driver's license, census or national household survey?

ASIA PACIFIC

Australia

<https://www.abs.gov.au/articles/analysis-non-binary-sex-responses>

India***

Government studies include options beyond just male and female. The National Family and Health Survey (2019) had M, F, and Transgender as options for the gender question. The Census 2011 had M, F, and Other. PFA the 2021 census manual. Page # 21 describes sex as Male/Female/Transgender. Often, it is substituted by 'Third gender' or 'Others'.

<https://www.dnaindia.com/india/report-in-a-first-government-survey-recognises-transgenders-as-third-gender-2108123> Whilst it is legally possible, researchers should use their judgement and decide based on the need of the study, considering the taboo attached to this issue.

Nepal

<http://edition.cnn.com/2011/WORLD/asiapcf/05/31/nepal.census.gender/>

New Zealand

https://www.nzherald.co.nz/nz/x-marks-the-spot-on-passport-for-transgender-travellers/OAH7D5ETJDSUKUTDL5C452CLGQ/?c_id=1&objectid=10852012

EUROPE

Austria ***

<https://www.statistik.at/en/statistics/population-and-society/population/population-stock/population-by-age-/sex>
https://www.oesterreich.gv.at/en/themen/dokumente_und_recht/%C3%84nderung-der-Geschlechtszugeh%C3%B6rigkeit.html

Belgium

<https://www.brusselstimes.com/195585/indication-of-gender-could-disappear-from-belgian-id-card>

Denmark

<https://www.oecd.org/denmark/OECD-LGBTI-2020-Over-The-Rainbow-DENMARK.pdf>

Germany ***

<https://www.npr.org/sections/thetwo-way/2013/11/01/242366812/germany-offers-third-gender-option-on-birth-certificates>

Since 2018, the civil status register has provided the option 'diverse' in addition to 'female' and 'male' (Act on the Amendment of the Information to be Entered in the Register of Births of December 18, 2018 (BGBl. I page 2635)). The Federal Statistical Office in Germany determines the gender according to the register of births (Personenstandsregister). The query of 'gender' has been changed to 'female', 'male' and 'diverse' in the official statistics since 2019 (<https://www.statistikportal.de/de/methoden/drittes-geschlecht>). For methodological reasons, cases with the gender characteristics 'diverse' cannot be shown separately in the official statistics. Cases with these gender are allocated to male and female using a defined recoding procedure (<https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Bevoelkerung/Bevoelkerungsstand/Methoden/Erlauterungen/geschlechtsauspraegungen.html>).

Greece ***

<https://isotita.gr/nomothesia/>

<https://www.e-nomothesia.gr/autodioikese-demoi/nomos-4604-2019-phek-50a-26-3-2019.html>

Iceland

<https://www.government.is/topics/human-rights-and-equality/equality/legislation/gender-autonomy/>

Ireland ***

<https://www.irishtimes.com/news/social-affairs/census-to-assign-biological-sex-randomly-for-those-who-do-not-declare-as-male-or-female-1.4825848>

Malta

<https://www.economist.com/graphic-detail/2018/06/05/malta-leads-the-way-for-gay-and-transgender-rights-in-europe>

The Netherlands

<https://www.government.nl/topics/identification-documents/certificates-and-official-documents/changing-the-registration-of-gender-on-official-documents>

UK ***

<https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/sexandgenderidentityquestiondevelopmentforcensus2021>

<https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/genderidentity/census2021finalguidanceforthequestionwhatisyoursex>

UK GDPR and the Data Protection Act 2018 allow for the collection of gender data following the special category provisions. MRS provides separate guidance which sets out the requirements for collecting special category data such as gender. See: GDPR in Brief No.10: <https://www.mrs.org.uk/standards/data-protection>.

LATIN AMERICA

Argentina ***

<https://www.boletinoficial.gob.ar/detalleAviso/primera/247092/20210721>

The 2022 census (fieldwork 2022, results still pending) included specific questions about gender identity:

https://www.indec.gob.ar/ftp/cuadros/poblacion/Censo2022_cuestionario_viviendas_particulares.pdf As gender identity might be considered sensitive information, and specific protection measures might apply (guarantee of data anonymisation, and proper registration of the dataset in the Database Registrar

<http://servicios.infoleg.gob.ar/infolegInternet/anexos/60000-64999/64790/norma.htm>).

Brazil

<https://servicos.dpf.gov.br/sinpa/inicializacaoSolicitacao.do?dispatch=inicializarSolicitacaoPassaporte>

Chile

<https://abcnews.go.com/International/wireStory/chile-issues-binary-national-identity-document-91530941>

<https://iguales.cl/iguales-celebra-promulgacion-la-ley-identidad-genero-e-insta-al-gobierno-celeridad-los-reglamentos-no-retrasar-entrada-vigencia/>

Colombia***

National Statistics is already considering some changes (DANE).

<https://xtramagazine.com/power/activism/colombia-recognizes-non-binary-219625>

Uruguay***

The National Statistics Institute has included a non-binary approach since 2019, and the question will be included in the 2023 census. 2023 Census Experimental Questionnaire includes (page 7):

<https://preprod.censo2023.uy/wp-content/uploads/2023/02/Formulario-censo-experimental-2022.pdf>

NORTH AMERICA

Canada

<https://www150.statcan.gc.ca/n1/daily-quotidien/220427/dq220427b-eng.htm>

<https://news.gov.bc.ca/releases/2018HLTH0079-002116>

US

<https://www.state.gov/x-gender-marker-available-on-u-s-passports-starting-april-11/>

Which associations provide guidance on taking a non-binary approach in market research?

Australia

Guidance about collecting data on sex and gender <https://researchsociety.com.au/documents/item/3090>

Colombia

We are discussing two options with companies and organisations in Colombia

1. Simple form - Are you:

Male

Female

Another gender identity

Prefer not to answer

2. More detailed (open some other possibilities in “Another gender”)

Non-binary

Gender non-conforming

Transgender

Another gender identity

Germany

ADM recommended for the gender query 'female', 'male', and 'diverse'. Apparently, this recommendation has already been adopted in numerous audience measurement studies from various German media JICs.

UK

MRS key principles of inclusive research <https://www.mrs.org.uk/resources/representation-in-research-faqs>
<https://www.mrs.org.uk/pdf/MRS%20Best%20Practice%20Guide%20Collecting%20Data%20on%20Sex%20and%20Gender.pdf>

UK GDPR and the Data Protection Act 2018 allow for the collection of gender data following the special category provisions. MRS provides separate guidance which sets out the requirements for collecting special category data such as gender.

See: GDPR in Brief No.10: <https://www.mrs.org.uk/standards/data-protection>

Countries where a non-binary approach would not be advisable**

Africa ****

Angola
Algeria
Benin
Botswana
Burundi
Burkina Faso
Cameroon
Cape Verde
Central African Republic
Djibouti
Chad
Comoros
DR Congo
Republic of Congo
(Brazzaville)
Cote d'Ivoire (Ivory Coast)
Egypt
Eritrea
Eswatini (Swaziland)
Ethiopia
Gambia
Gabon
Ghana
Guinea
Guinea Bissau
Guinea Equatorial
Kenya
Lesotho
Liberia

Libya
Madagascar
Malawi
Mali
Mauritania
Mauritius
Mayotte
Morocco
Mozambique
Namibia
Niger
Nigeria
Reunion
Rwanda
Saint Helena
Sao Tome & Principe
Senegal
Seychelles
Sierra Leone
Somalia
South Africa
South Sudan
Sudan
Tanzania
Togo
Tunisia
Uganda
Western Sahara
Zambia
Zimbabwe

Americas and the Caribbean

Barbados
Dominica
Grenada
Guyana
Jamaica
St. Lucia
St. Vincent and
Grenadines

Syria
Turkmenistan
UAE
Uzbekistan
Vietnam
Yemen

Europe

Hungary
Lithuania
Russia
Romania

Asia and the Middle East

Afghanistan
Bangladesh
Brunei
Indonesia
Iran
Kuwait
Lebanon
Malaysia
Maldives
Myanmar
Oman
Pakistan
Palestine
Qatar
Saudi Arabia
Singapore
Sri Lanka

*Researchers and organisations must comply with the legal and market research requirements of each country where they plan to do fieldwork or process data. The information provided in this document may need to be supplemented with legal counsel in the jurisdiction where the research is to be conducted in order to ensure full compliance in the context of a specific research project.

** This list is to the best of our knowledge and is non-exhaustive. For this reason, it is not legal advice. Please consult a lawyer for legal counsel in the jurisdiction where the research is to be conducted.

*** Answer provided by the national association of that country.

**** Sources include MR Association in Nigeria.

Further reading:

<https://www.migrationpolicy.org/article/x-marker-trans-nonbinary-travelers>

<https://www.undp.org/asia-pacific/publications/legal-gender-recognition-multi-country-legal-and-policy-review-asia>

https://en.wikipedia.org/wiki/Legal_recognition_of_non-binary_gender

https://ilga.org/sites/default/files/downloads/ENG_ILGA_World_map_sexual_orientation_laws_dec2020.png

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