



Review Conclusions/ Recommendations	Response
<p>The authors of India: Operational Guidance Note 2013 have used and cited sources that are more updated than India: COI 2012. Nevertheless this reviewer finds that significant information is sometimes missing and at times misinterpreted. Therefore India: OGN 2013 might not always accurately reflect India: COI 2012. In particular this reviewer finds that except for most recent facts India: OGN 2013 relies on updated but not always relevant sources.</p> <p>This reviewer notices a significant use of the US State Department as sources of information, which recurs in 29 instances in India OGN 2013. Detailed suggestions have been formulated with regard to relevant sources but, from a general perspective, this reviewer reiterates that the use of a greater diversification of sources (possibly including original texts, especially for legal sources, and academic publications as well) is necessary to a balanced understanding of information and facts that are heavily impacted by important cultural, historical, financial and political factors.</p>	<p>We will take forward the helpful recommendations made by the reviewer and incorporate them as appropriate in the next version of the OGN.</p> <p>As set out in para 1.2 of each OGN, caseworkers are instructed not to base decisions on the country of origin information contained in the OGN but instead refer to the relevant COI product.</p>
<p>2.2.2 This section should be integrated with the reference to people’s massive displacement due to internal conflicts such as Gujarat Riots and Garo Rabha conflicts, which should be added and/or linked to the existing references in other sections of India OGN 2013.</p>	<p>Accepted. This will be expanded in the next version of the OGN to include this additional information.</p>
<p>2.2.9 More recent information than the report for ACHR 2008 should be included on torture and custodial death.</p>	<p>Accepted. This will be expanded in the next version of the OGN to include this additional information.</p>
<p>3.10.2 The quotation from US State Department (see note 33 page 13) stating that “The central and state government and the armed forces investigated complaints and punished some violations committed by their own forces ...” does not reflect the section on human rights violation by security forces (COI 9.23, p.43) that states “Even in cases where the Government’s Central Bureau of Investigation has found compelling evidence of violation by the security forces, permission to prosecute has been denied”.</p>	<p>Not accepted. The COIS source is from the SAHR index 2008 and the OGN quotes a more updated source in the form of the US report of 2012 published in 2013 so we do not accept this proposal.</p>

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<p>3.10.3 This section reports data from a US State Department report (see note 34, p.13, India OGN 2013). The same US State Department report at p. 3 also quotes another source which is not mentioned by India OGN 2013 and provides slightly different data: “The Kashmir Coalition of Civil Society, a Kashmir-based human rights nongovernmental organization (NGO), reported 148 deaths from violent incidents, among other human rights abuses, including the deaths of 35 civilians, 75 alleged militants, and 36 security forces personnel.”</p> <p>Furthermore the following statement from the India COI 2012 (p. 35, 8.09) is not reflected in the India OGN 2013: “the major threat to stability in Jammu and Kashmir does not come from insurgents but from general protester as a reaction to the huge military presence and lack of political progress.”</p>	<p>Accepted. This will be expanded in the next version of the OGN to include this additional information.</p>
<p>3.10.6 After consultation from the cited source the following data appear to be mistaken: read 604 instead of 600 for Maoists related deaths in 2011, and 1080 instead of 1180 for Maoists related deaths in 2012.</p> <p>The relationship between civilians, Maoists and State forces should be clarified in the light of the report mentioned at p.33-34 by section 8.04-8.06 of India COI 2012 (see <a href="http://www.hrw.org/sites/default/files/reports/india0712ForUpload.pdf">http://www.hrw.org/sites/default/files/reports/india0712ForUpload.pdf</a> accessed 14 December 13). This same report is mentioned in India OGN 2013 at p. 15, note 48 but does not highlight the undue pressure suffered by civilians in the area affected by conflicts between the state and Maoist groups.</p>	<p>Accepted. This will be updated and altered in the next version of the OGN and will include the additional information as suggested.</p>
<p>3.10.13 This section should better reflect the information provided at p. 79, section 17 of India COI 2012, Freedom of speech and media, regarding journalists and activists facing trial under special laws and the limitation to the freedom of speech against state sponsored abuses.</p>	<p>Accepted. This will be addressed in the next version of the OGN.</p>

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<p>3.11.10 This section stresses that religious motivated violence (for ex. Gujarat riots of 2002) is not contained because of lack of trained public officials and discriminative attitude by the police. However, as this reviewer has suggested in relation to section 3, History, of the India COI 2012, the likely responsibility of the Gujarat Chief Minister Narendra Modi, should also be highlighted (see <a href="http://www.bbc.co.uk/news/world-south-asia-13170914">http://www.bbc.co.uk/news/world-south-asia-13170914</a> accessed 14 December 13).</p>	<p>Accepted. This will be expanded in the next version of the OGN to include this additional information</p>
<p>3.12 Land Disputes. While this section might reflect and even be slightly more updated than the India COI 2012 it does not include the difficulties of farmers due to the failure of agricultural reforms (see on agricultural reforms and their failure (see Deshpande, R S, 2012, Agrarian Crisis and Farmer Suicides (Land Reforms in India Series), Sage Publication), and failure of micro-credit schemes, it is a fact that soaring numbers of suicide among farmers are registered and soaring number of suicide in concomitance with the extractive industries and the introduction of corporate agriculture using GMO techniques has been observed and registered worldwide. Updated information, of which some such as the backlog of civil cases has been reported by India COI 2012 at 12.16 show that the combination of inadequate legislation with connivance between police and politicians make the existing redress ineffective or of difficult access, especially to ethnic and religious minorities and against corporate crime.</p> <p>This section should be updated with the information suggested by my review of India COI 2012 and particular attention should be given to the unlikely or unduly harsh relocation of disposed farmers, especially if they belong to ethnic and religious minorities, and if they are women relocating alone and/or with children.</p>	<p>The recommendations regarding the country information are accepted and will be reflected in the next version of the OGN; and the point regarding internal relocation considered in the light of the updated country information..</p>
<p>3.13 Violence against women. While, generally speaking this section appears to be adequately updated and appropriate reflecting India COI 2012, it suffers from the lack of understanding of the debate on personal laws, customs and their potential adverse impact on women and children. This reviewer has already signalled this lacuna for India COI 2012 but here it appears even more evident. A blatant example of the above is that since matrimonial dispute and domestic violence are considered to be a family problem (as correctly mentioned by OGN India 2013 at p. 27) they tend to be settled by state and non-state sponsored alternative dispute resolution such as panchayat and arbitration/adjudication boards. The role and competence of some of these non-state (or partially state-sponsored or state-tolerated) jurisdictions is often acknowledged by state law in India (see for ex. Holden, Livia (2008) Hindu Divorce, Aldershot: Ashgate, esp. chap. 4 and 5) and should be given more attention both for the factual protection and their potential manipulation by patriarchal instances in specific circumstances.</p>	<p>Accepted. This will be expanded in the next version of the OGN to include this additional information</p>

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<p>3.14 Gay men, lesbian, bisexual and transgender persons. As this reviewer signalled for India COI 2012 this section should be updated with the recent decision by the Supreme Court that sets out the Delhi High Court order declaring gay sex as illegal. The Attorney General has expressed a view in the press against the Supreme Court's judgment. More detailed consideration should be given to the situation of transgender persons who have a specific place in South Asian society but due to the lack of awareness and understanding of their cultural practices and traditions may not be given appropriate protection and effective legal rights in the ongoing process of social engineering and progress. See for ex. The difficult management of collective use of income, property rights concentrated in the hands of the guru, and non-state systems of dispute resolution as shown in the documentary film <i>Between the Lines</i> by Thomas Wartman (2005).</p>	<p>Accepted. This will be expanded in the next version of the OGN to include this additional information</p>
<p>3.15 Prison conditions. This section on prison conditions would benefit from a closer consultation of original sources especially for what concerns the legal texts and adequate linkages with the special legislation that in certain states allow for longer preventive detention and torture by the police and other state forces, especially in Jammu and Kashmir and in the North East areas. Although some of this information is mentioned by India COI 2012, India OGN 2013 does not reflect the variety of situations and conditions of prisons in the different states of the federation.</p>	<p>Accepted. This will be expanded in the next version of the OGN to include this additional information</p>