

Independent Advisory Group on Country Information (IAGCI)

**Evaluation of how LGBTI issues are dealt with in the Home Office's
Country of Origin Reports**

Prepared for the Independent Advisory Group on Country Information (IAGCI)

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I. Project Overview

1. Introduction

The IAGCI has commissioned this review. The IAGCI was established in March 2009 by the Independent Chief Inspector of Borders and Immigration and succeeded the Advisory Panel on Country Information (APCI). The IAGCI makes recommendations to the Chief Inspector about the content of material produced by the Home Office's Country of Origin Information Service as well as recommendations of a more general nature.

The Independent Advisory Group on Country Information (IAGCI) is part of the Office of the Chief Inspector of the UK Home Office. Its main purpose is to review the content of all Country of Origin Information (COI) produced by the Home Office to help ensure that this is as accurate, balanced, impartial and up to date as possible. COI is information used in procedures that assess claims of individuals to refugee status or other forms of international and humanitarian protection. It is also used in policy formulation.

Normally the IAGCI focuses on particular COI Reports produced by the Home Office. COI Reports are produced regularly on the top 20 asylum intake countries. They provide general background information about the issues most commonly raised in asylum claims made in the United Kingdom. They are compiled wholly from material produced by a range of recognised external information sources and do not contain any Home Office opinion or policy.

As well as focusing upon individual COI Reports, the IAGCI is concerned to examine the way that particular generic issues are dealt with across the full range of COI Reports produced on all twenty countries. In the past such 'cross-cutting' reports have been commissioned (by the Group's predecessor the Advisory Panel on Country Information) on gender issues; lesbian, gay, bisexual and transgender issues; children and return issues.

At its next meeting to be held in January 2014, the IAGCI will consider the way that sexual orientation and gender identity (also referred to as Lesbian, Gay, Bisexual, Transgender and Intersex or LGBTII issues) are dealt with in each of the 20 COI Reports produced.

More information about the AIGCI can be found on the following website:

<http://icinspector.independent.gov.uk/country-information-reviews/>

The overall purpose of this review is to provide a brief assessment of the information in the lesbian, LGBTI sections of 20 COI Reports.

The researcher is experienced in undertaking asylum, human rights and country information research, with specific expertise on lesbian and gay issues, sexual orientation and gender. The researcher is not an expert on each of the individual countries concerned.

1. The project brief

The project brief was to undertake a review of the sections on LGBT persons in selected COI publications regarding:

- (i) Completeness - the extent to which relevant available information on the situation of LGBTI persons has been reflected in the COI Report. Additional sources should be identified where appropriate; and
- (ii) Accuracy and balance - whether relevant information from source material has been accurately and appropriately reflected in the COI Report, noting any specific errors or omissions.

The review will include the most recent versions of COI publications on the following countries:

1. Afghanistan
2. Albania
3. Bangladesh
4. China
5. Eritrea
6. Gambia
7. India
8. Iran
9. Iraq
10. Libya
11. Nigeria
12. Pakistan
13. Somalia
14. Sudan
15. Sri Lanka
16. Syria
17. Turkey
18. Uganda
19. Vietnam
20. Zimbabwe

While the review should consider all 20 COI reports, it should devote particular attention to the COI reports for **Iran, the Gambia, Nigeria, Pakistan, and Uganda** as significant numbers of claims are currently being received in the UK from these countries (most claims are on the basis of sexual orientation rather than gender identity, but coverage of all issues will be important).

The review should focus on the sections on sexual orientation and gender identity (referred to as LGBT or LGBTI issues in most reports), but should also consider the extent to which sensitivity to sexual identity and gender identity is appropriately reflected elsewhere in the reports.

An earlier review of LGBT Issues was conducted by the precursor of the IAGCI, the Advisory Panel on Country Information, in 2008. On the basis of that review, a revised template for coverage of sexual orientation and gender issues was developed. The review should consider the extent to which the recommendations made in the 2008 review (both the review and the template will be made available to the researcher) have been implemented, and should evaluate how well the individual COI Reports have followed the thematic template. If necessary, the reviewer should recommend any changes needed to be made to the template.

Before beginning the project, the researcher should carefully consider the preface of the COI Reports to ensure that the specific context of this work is fully understood. The stated purpose of the documents is to provide an accurate, balanced and up to date summary of the key available source documents regarding the human rights situation in the country covered. In carrying out the project, the researcher should also bear in mind that the level of information provided in each COI Report on any given issue will depend upon the relevance of that issue to the country concerned and the availability of information.

2. Methodology

The following methodology was adopted for carrying out the review:

- (i) Analysis of the stated purpose of the COI publications and what specific kind of information would be required to meet the stated purpose in relation to asylum/human rights applications from LGBT persons;

- (ii) Review of LGBTI sections of each COI Report for completeness (with reference to the thematic template), accuracy and balance;
- (iii) Review of other sections of the COI reports to assess sensitivity towards gender identity and sexual orientation issues;
- (iv) Assessment of how the recommendations made in the 2008 review were implemented;
- (v) Comment on researcher template and guidance note;
- (vi) Brief comparative summary based on the findings;
- (vii) Brief section on sources.

II. Purpose of the material: the kind of information required

The COI materials are produced for the purpose of use in the asylum/human rights determination process. Therefore, the information provided should be suitable to assist Home Office officials in their determination of whether the applicant should be granted refugee status or requires human rights protection.

The preface to the COI Reports, mention the following points relevant to this review:

Summary of purpose of the material

- The focus of the reports is on the issues that are most commonly raised in asylum/human rights claims;
- The level of information provided on any given issue will depend upon the relevance of that issue to the country concerned and the availability of information;
- The reports are in essence a collation of (extracts from) materials that have been produced by a wide range of external information sources, considered to be reliable and recognised by the COI Service;
- The reports are not intended to be a detailed or comprehensive survey;
- The reports include a stated ‘cut off’ date for inclusion of information in the report concerned;
- The reports are substantially based on source documents issued during the previous two years, although older documents can be included if they contain relevant information that is not available in more recent documents;
- The reports do not include any Home Office opinion or policy, nor do they attempt to resolve discrepancies between information provided in different source document.

- In general, the COI Service aims to provide country information that is:
 - Accurate
 - Objective
 - Balanced
 - Relevant
 - Up-to-date
 - Sourced

III. Guidance for authors and suggestions

1. Guidance template

Based on recommendations developed in an earlier review of LGBT Issues conducted by the precursor of the IAGCI, the Advisory Panel on Country Information, in 2008, a revised template for coverage of sexual orientation and gender issues was developed:

COI guidance template for authors

Legal rights

Consider the situation for men, women and transgender persons respectively

- Do any laws explicitly or implicitly punish or discriminate against LGBT persons – same-sex relations, non-conforming sexual behaviours, laws on regulating sexual relations between adults, etc.? Are these enforced (what are punishments, rates of prosecution, etc.)?
- Do any laws protect the interests of LGBT persons, and are they enforced (e.g. protection for family life and same-sex partnerships; recognition of new gender of transsexuals after sex reassignment surgery; prohibition of discrimination on basis of sexual orientation, etc.)?

Treatment by, and attitudes of, state authorities

Consider the situation for men, women and transgender persons respectively

- Do politicians, state authorities or state media portray LGBT people in a negative light?
- Are there any actions by the state, including the security apparatus (police/army), against LGBT persons? Is there harassment, violence, intimidation, etc. of LGBT persons? Is there direct or indirect discrimination, including prevention of formation and actions of LGBT groups or groups supporting LGBT persons? Are there restrictions on LGBT ‘social space’? Are LGBT persons politically active?
- Are there restrictions on LGBT persons in the military service; or problems faced by those undertaking military service? Do they face problems faced in prisons?
- Does the state provide protection against societal violence/harassment; if so, what is it like in practice? Is there government support for LGBT groups?
- Is there any evidence of LGBT people being denied access to education, health care, social security benefits or employment opportunities, etc.?

Societal treatment and attitudes

Consider the situation for men, women and transgender persons respectively

- What are the general perceptions and treatment of LGBT persons by majority of the population?
- What are society’s views on sexual morality generally? Are they conservative or tolerant and how are those who don’t conform treated? Is there pressure to marry, etc.?
- What are the approaches of the major religions to LGBT persons and practical impact of this?
- Is there any evidence of ‘societal’ violence and / or harassment directed against LGBT people?
- How visible are LGBT persons? How are LGBT people portrayed by the media?
- Are there any LGBT support or advocacy groups/associations? Are there places where LGBT persons can express their identity: clubs, internet, etc.? How accessible are these – does it vary with location (urban/rural), social class, etc.?
- Are LGBT individuals able to live independently on their own – does this vary with age, class and sex?
- Is there information about the attitude of the medical sector? Is there ‘treatment’ for being gay? Is sexual reassignment treatment available for transgender persons? Is there treatment of gays/lesbians with HIV/AIDS?
- Is there any information regarding whether there are high proportions of LGBT persons in sex work, and their treatment?
- Is there any information of how in practice a LGBT person could live in a country and not face persecution?

Comments on the template:

- i) In the section *legal rights*, a specific question could be asked on ‘other charges’ that may be used to arrest/prosecute LGBTI persons. For example, in some countries, especially where same-sex relations are not illegal or a law prohibiting same-sex is obsolete (but State persecution persists) it is useful to know what charges are used, and the related punishments. This is not systematically reported on in COI reports, leading to gaps in information on legal rights.
- ii) On the question: ‘Is there any information of how in practice a LGBT person could live in a country and not face persecution?’ this often elicits information on the ability to live without persecution by being discreet. It would be better to pose the following question: ‘in practice how could an LGBTI person live openly and not be exposed to a real risk of persecution, even if they could avoid the risk by living discreetly?’
- iii) On the general question on access to health care, a probing question could include a question on discrimination in health care and impacts on health (i.e. to elicit information on fear of discrimination which would lead to a patient not disclosing important information/being appropriately treated).
- iv) The guidance template could also include information on pressure exerted on the media and how they are deterred from reporting on LGBTI issues. Information on this also helps contextualise the lack of local sources available and reporting of cases of violence/harassment/discrimination of LGBTI persons in some countries.
- v) While the guidelines specifically state that in setting out material on LGBT persons, country researchers should systematically cover the position of gay/bisexual men, lesbians/bisexual women and transgender persons respectively, and the guidance template states this as well, in many countries this approach is not followed. Often some sub-groups are not mentioned at all, with no explicit statement that they have been considered.

In other instances, reporting on some subgroups is patchy, with information reported in one section but not another. Perhaps a way to address this would be to make the template (even more) more prescriptive, for example by including the headings for each sub group.

COIS: Accepted. We will review the template in light of the comments above.

We will consistently apply internal guidance to future products covering LGBTI persons.

Definitions and terms

The following terms are defined in the guidance for researchers:

Lesbian, gay and bisexual

Lesbian, gay and bisexual ‘Lesbian’, ‘gay’ and ‘bisexual’ are terms which refer to a person’s sexual orientation.

‘Sexual orientation’ is the term for an individual’s enduring physical, romantic, emotional and / or spiritual attraction. A person’s sexual orientation can be to the opposite sex - heterosexual; to the same sex - gay (men) or lesbian (women); or to both sexes – bisexual.

Two other important aspects of a person's sexuality, their sexual identity and sexual behaviour, may or may not be consistent with their sexual orientation:

- 'Sexual identity' describes how a person identifies their own sexuality. Many people with LGB sexual orientation are reluctant to self-identify publicly or even privately to themselves (being 'closeted' rather than 'out').
- 'Sexual behaviour' relates to activities to find or attract partners for physical or emotional intimacy or sexual contact. A person whose sexual orientation is heterosexual, might in certain circumstances have sexual contact with a person of the same sex, (e.g. lack of access to people of the opposite sex or exertion of power).

Transgender

Unlike lesbian, gay and bisexual, the term 'transgender' refers to gender identity and gender expression rather than sexual orientation. 'Gender identity' is an individual's internal, personal sense of being a man or a woman. 'Gender expression' refers to the external expression of gender identity through appearance and behaviour.

Transgender is an umbrella term for people whose gender identity and/or gender expression differs from the sex they were born. The most commonly known transgender groups are:

- *Transsexual*: a person who identifies as, or desires to live and be accepted as, a member of the sex opposite to that assigned at birth. Many transsexual people have a wish to alter their bodies: these physical changes are known as sex reassignment therapy and often include hormone replacement therapy and sex reassignment surgery.
- *Cross-dresser*: a person who has apparent gender identification with one sex, but who sometimes wears the clothing of the opposite sex. Unlike transsexuals, a cross-dresser may not identify with, or want to be the opposite sex.

Transgender is a wide concept and can include a person who identifies as both male and female or 'third gender', etc. The term may apply to physical appearance and/or social behaviour.

Transgender and sexual orientation

Gender identity and sexual orientation are separate concepts. Transgender people may be heterosexual, lesbian, gay or bisexual. A person who was born as a man but becomes a woman would be identified as heterosexual if she is attracted to men, and lesbian if she is attracted to women.

The above definitions have been taken from the APCI Review¹ and the GLAAD Media Guide²; the latter provides useful lists of common terms used in relation to lesbian/gay/bisexual and transgender persons.

Comment:

The definition of intersex should be included in the guidance for researchers.

ILGA Europe provides the following definition:

‘ **Intersex people:** refers to those people who have genetic, hormonal and physical features that are neither exclusively male nor exclusively female, but are typical of both at once or not clearly defined as either. These features can manifest themselves within secondary sexual characteristics such as muscle mass, hair distribution, breasts and stature; primary sexual characteristics such as reproductive organs and genitalia; and/or in chromosomal structures and hormones. This term has replaced the term

¹ An analysis of the coverage of LGBT issues in Country of Origin Reports produced by the COI Service prepared for the APCI by Anisa de Jong, September 2008

² Gay and Lesbian Alliance against Defamation, Media Reference Guide, 7th edition, updated May 2007
http://www.glaad.org/media/guide/GLAAD_MediaRefGuide_7thEdition.pdf

'hermaphrodite' which was used extensively by medical practitioners during the 18th and 19th centuries.³

COIS: Thank you for the useful definition.

2. Guidance for researchers

The guidance for researchers provides the following:

Sourcing

It is often difficult to obtain accurate, up-to-date and reliable information about the lives of LGBT persons in countries of origin. Many societies do not acknowledge or tolerate the existence of LGBT persons, who are therefore obliged to conduct their personal lives in a clandestine manner. As a result, information about LGBT persons is often very limited, and where source material does exist, this often includes stereotypes and moral judgements (see below). Despite these constraints, researchers should aim to use as wide a range of sources as possible, including governmental, international and local NGOs, and LGBT organisations. Wherever possible, a LGBT perspective should be included to provide a more rounded depiction of the situation in a given country. Given the general paucity of information on LGBT issues, it may often be necessary to approach the FCO to undertake further research.

Content

A detailed outline of the areas and issues to be covered on LGBT persons can be found in the template at Annex A below. In broad terms, coverage should include

- *legal position: i.e. legislation that explicitly or implicitly criminalises, discriminates against or protects, LGBT persons, including that in relation to (same-sex) sexual behaviour;*
- *attitudes of and treatment by the state authorities: e.g. the actions of the police; access to state facilities such as health care and social service; tolerance/support for LGBT groups;*
- *societal attitudes and treatment: e.g. general attitudes to LGBT persons; societal violence; sexuality morality and behaviour generally which can provide context to what is tolerated (and what therefore may not be); any information on how in practice LGBT persons may live 'discreetly' in a particular society*

In setting out material on LGBT persons, country researchers should systematically cover the position of gay/bisexual men, lesbians/bisexual women and transgender persons respectively.

Sexual identity

Sources usually comment on same-sex behaviour but are less forthcoming on the consequences of having a LGBT 'identity'. This means considering, for example, whether they are able to have same-sex family life; to express their gender or sexual identity freely; to associate with other LGBT persons in organised groups, access to healthcare and employment, etc.

Gender

Researchers should take into account gender and what role this has to play in the experiences of LGBT persons. For example, women will often have a different position in a country's society from that of men. This, in turn, may affect how they are treated by the state or society for being gay and how they are able to cope.

Bisexual people

In considering the situation of bisexual persons, it is the same-sex element of their sexual orientation that is likely to cause problems and will usually be covered by the experiences of gays and lesbians. Transgender persons

³ See ILGA Europe Glossary, <http://www.ilga-europe.org/home/publications/glossary>

For transgender persons, the principal issue is likely to be gender identity rather than sexual orientation. However, their experiences are likely to overlap with other members of the LGBT 'community'.

Stereotyping and moral judgments

In describing the situation of LGBT persons, researchers need to be careful not to perpetuate common stereotypes, misconceptions and moral judgments. Sometimes source material may contain useful information but expressed in an inappropriate manner. In such cases, the information should be paraphrased or carefully presented in quotes to indicate that the author does not subscribe to the phrase or language used. Specific advice on use of language to avoid is provided below. If in doubt, the line manager should be consulted.

*It is particularly important to be alert to the distinction between sexual behaviour and sexual orientation / identity. In particular, it should not be assumed that cases of same-sex child abuse or same-sex rape are synonymous with LGBT. For example there is a common misconception that gay men are involved in paedophilia, which should be avoided. Any information regarding child abuse should generally be documented in the children's section of the report. However, where sources indicate societal prejudice or perceptions that gays are involved in such activity, this would be relevant and should be included in the LGBT section. (See also appropriate language below).
'Discretion'*

Whether a LGBT person is able to live 'discreetly' in a given society may be a significant aspect of an asylum or human rights claim and any information relevant to this issue should be included. In particular, country researchers should aim to provide a thorough description of state, societal and familial attitudes towards LGBT persons complemented by information on the general regulation of sexual morality and gender roles (and the consequences for transgressing these roles). Relevant information might include, for example: whether individuals can live alone or with someone of the same sex; whether they are expected/compelled to marry someone of the opposite sex; whether it is possible to engage in same-sex behaviour; whether individuals can get involved in LGBT organisations; etc.

Country researchers should not include their own analysis about what it would entail for a LGBT person to live in a country in a way that would avoid persecution. Great care should be taken when including source material which gives a view on the visibility of a person's LGB sexual identity in the context of socially accepted behaviour in a particular country. Some cultures may have a considerable degree of same-sex physical tactility, such as publicly holding hands and kissing, and some sources have suggested that this makes 'discretion' easier. Such material should generally be included, but should be carefully presented as the view of the specific source only, rather than of other commentators or UKBA. If in doubt, the line manager should be consulted.

Cross referencing

It is likely that there will be information in other sections of reports that is relevant to the issues faced by LGBT persons and cross references should be provided. There should always be links between any information on lesbians and the section on women. Other likely cross-references include sections on military service and medical treatment (HIV/AIDs).

Language: offensive terminology to avoid

There are certain words and phrases used in the past to describe LGBT persons and their relationships that should be avoided because of derogatory and offensive associations:

*Offensive: 'Homosexual' – as a noun or adjective
Preferred: 'gay' (adjective); 'gay man' or 'lesbian' (noun)*

The word 'homosexual' is commonly used but is increasingly considered inappropriate, because of the clinical history of the word and associations with notions that lesbians and gay men are somehow disordered. Use of the word 'homosexual' should be avoided except in direct quotes.

Offensive: 'homosexual relations/relationship', 'homosexual couple', 'homosexual sex', etc.

Preferred: 'relationship' (or 'sexual relationship'), 'couple' (or, if necessary, 'gay couple'), 'sex', etc.

Identifying a same-sex couple as 'a homosexual couple', characterising their relationship as 'a homosexual relationship', or identifying their intimacy as 'homosexual sex' is offensive and should be avoided. As a rule, try to avoid labelling an activity, emotion or relationship 'gay', 'lesbian' or 'bisexual' unless you would call the same activity, emotion or relationship 'straight' if engaged in by someone of another sexual orientation.

Offensive: (homosexual / gay) 'practices'

Preferred: 'same-sex relations'

'Practices' is a dated term which implies anal penetration and should be avoided.

Offensive: 'sexual minorities'

Preferred: 'LGBT persons'

'Sexual minorities' implies a much wider range of uncommon variations of sexuality than LGBT and should be avoided in relation to LGBT persons and issues

Offensive: 'sexual preference'

Preferred: 'sexual orientation'

The term 'sexual preference' is typically used to suggest that being lesbian, gay or bisexual is a choice and therefore could be 'cured'.

Offensive: 'gay lifestyle' or 'homosexual lifestyle'

Preferred: 'lesbian', 'gay', 'bisexual'

There is no single lesbian, gay or bisexual lifestyle. Lesbians, gay men and bisexuals are diverse in the ways they lead their lives. The phrase 'gay lifestyle' is used to denigrate lesbians and gay men, suggesting that their sexual orientation is a choice and therefore could be 'cured'.

Offensive: 'transvestite'

Preferred: 'cross-dresser'

A longer list of offensive terms and their preferred alternatives is available in the GLAAD Media Guide.

Comment:

In addition to this comprehensive guidance for researchers, some guidance on the use of social media could be included in the guidance document.

In October 2013, the New Zealand government provided some useful guidance on using social media in COI research - <http://www.ecoi.net/blog/wp-content/uploads/2013/10/CRB-Country-of-Origin-Information-and-Social-Media-Executive-Summary-October-2013.pdf>

COIS: Thank you. However we are not clear why this document is relevant particularly to guidance on LGBTI persons since it addresses social media in general not in relation to LGBTI persons specifically.

IV. Key issues and comparative analysis

In reviewing of each COI report, the general understanding of LGBTI issues demonstrated in the report was reviewed, and the related issues of whether appropriate content and language was used. The assessment also reviews the quality and balance of sources, and how well LGBTI perspectives are presented.

Finally, the completeness of the information provided was assessed, and additional sources suggested where applicable. The assessment of each report also includes a brief comment on the extent to which suggestions made in the 2008 review were followed.

An overview of the main findings, including good practices and areas for improvement is presented below.

a) Understanding of LGBT issues; appropriate content and language

On the whole the reports demonstrated a reasonable understanding of LGBT issues, with some reports demonstrating an excellent understanding (such as Zimbabwe), while a few reports presented an average understanding of these issues (including Afghanistan, Eritrea)

In the latter case, a main concern in some of the COI reports was the disproportionate emphasis given to the issue of same-sex behaviour, and not considering wider issues pertaining to having an LGBTI identity. These could be, for example:

- Right to private and family life as an LGBTI individual (i.e. ability to live with a same-sex partner);
- Access to rights such as education, healthcare, employment free from discrimination
- Access to appropriate healthcare for transgender persons, including gender reassignment, hormone treatment, counselling.
- Right to protection from violence, etc.
- Right to civil participation, including in political life, military conscription.
- Freedom of expressing gender or sexual identity, freedom of association.

Examples of good practices:

Albania: The report provides good information on discrimination in employment for LGBTI, societal pressures for lesbian women and transgender persons, as well as good description of lack of employment opportunities, links with sex work, harassment, and multiple discrimination issues (link with Roma issues).

Zimbabwe: The report demonstrates an excellent understanding of LGBTI issues, and covers many aspects of having an LGBTI identity, including access to healthcare, education and housing, as well as activities of LGBTI activists and treatment.

- Inclusion of appropriate content

Another issue noted in some of the reports was reporting on inappropriate content, which was either irrelevant and/or reflected a poor understanding of LGBTI issues.

Examples of inappropriate content include reportedly common practices such as older men taking young men or boys as lovers in certain societies, or male on male sex occurring in war zones or due to

deep gender segregation. This type of information was reported for example in Afghanistan and Pakistan.

This type of information is unlikely to have any significance to an asylum/human rights application in the UK. Another reason this type of information should be avoided to prevent reinforcement of negative stereotypes of LGBT persons.

Reporting on rape is also inappropriate unless it is justified and put into context. A good practice was noted in Zimbabwe, which referred to laws on male on male rape but justified this reference because same-sex relations are sometimes connected to rape in Zimbabwe.

Information suggesting that same-sex behaviour cannot be distinguished from other accepted social behaviour, and assuming that there is no distinction between a sexual act and a non-sexual one should be avoided as well. For example, in the Pakistan report:

Para. 21.17: Displays of affection between men in public, like hugging and holding hands, are common. A guy can be with a guy anytime, anywhere and no one will raise an eyebrow

This relates to gender conforming, non-sexual relations between men and has no relevance to men being sexually intimate. It also does not provide useful information on how LGBTI can express their identity as this suggests hiding and discretion,

Although the report mainly cites sources, the researcher should be discerning as to what to include, using information that is relevant, knowledgeable and accurate. The researcher should avoid stereotyping or restating ignorant views, even if these are set out in the sources available. Even where there is a lack of data, researchers should still be selective on the use of information available.

On the whole however, most COI reports reported on appropriate content.

COIS: We provided responses to the comments in regard to Afghanistan in the section reviewing that report below.

- Appropriate language

Inappropriate language is used in many of the quoted sources, although this is not attributed to the author. This however highlights the importance of using more up-to-date sources.

On the whole the language used in the reports was appropriate.

Only a few cases of inappropriate language were noted across the COI reports, although these were usually isolated occasions. Examples include the use of ‘homosexual’ in the Gambia report, several references to the term ‘homosexual’ and ‘sexual minorities’ in the India report (although the use of the latter term seemed like it was due to paraphrasing of an IRB report which used the term).

Researchers should be careful when paraphrasing to either put the term in quotation marks, or (better) refer to a less offensive term.

COIS: To note, the India report only uses ‘homosexual’ in quotes and refers to ‘sexual minorities’ twice in free text, once because the term is part of an NGO’s name. The Gambia report uses ‘homosexual’ once in free text; all other references are made in quotes.

.Quality and balance of sources; LGBTI perspectives

- Lack of available information

In some countries, very little information is available on LGBTI issues. This stems from a variety of factors, usually linked to deep social taboos and stigma on non-conforming gender identity and sexual, extent of freedom of expression/association, State harassment of the media and LGBTI organisations, etc. Countries where very little information is available includes Eritrea and Somalia. In these cases, it would be useful to consult the FCO for additional information.

In other reports, information on particular LGBTI sub groups is missing, in particular information on lesbian and transgender.

In many reports (but not all), the COI researchers state that no information on certain subgroups have been identified. This should be done consistently to demonstrate that they have been considered, and at least an effort made to explain the lack of information, as it is also an indicator of the human rights situation and repression of LGBTI persons.

COIS: We will ensure that in future country information products consistently state where it has not been possible to obtain relevant information.

We will also consider consulting the Foreign Office or undertaking fact finding missions where we require information about LGBTI persons which is otherwise not available.

Use of outdated sources:

Another issue noted was the use of outdated sources. This was noted in quite a few reports, especially Bangladesh.

Where there is no other data, the use of an older source can be justified, but the researcher should at least provide such a justification.

COIS: When the reviewer refers to outdated, we assume she means sources more than two years old.

We aim to provide information that is less than two years old and the preface to all reports states that sources are usually issued within the last two years (of the report's publication) but older material may be referred if still considered relevant. Where a source may appear dated, we will explain why we consider the source to be relevant.

Links in sources:

Researchers should also take care when providing links that the links work, and lead to the stated content. For example in the India report para. 22.13, the report provides a link to a lecture from the Indian Supreme Court on the legal situation of transgender persons. The link leads to a general webpage of ALF Lawyering for Change, but a transcript of the lecture could not be found.

COIS: We carefully check links before publication but unfortunately web addresses can change and/or documents move. If a link does not work, decision makers may be able to find the information through the source reference, alternatively they can contact COIS.

Contradictions/nuances

A very good practice noted was in the Uganda Report which included in para. 19.23, a quote from an Amnesty 2010 Report is followed by a comment from the COI Researcher saying 'this comment is contrary to that made by UHRC at 19.04 and should be considered accordingly'. This is very good

practice. At least for countries from which many asylum claims are made, such as Uganda, Nigeria, Iran, Pakistan, an effort could be made to do this.

Another good practice was noted in the Libya report, which cited a USSD source suggesting that no public information is available on societal discrimination towards LGBTI persons (para. 20.10), but nuances this source by stating that this should not be used to assert that there is no discrimination. This is very good practice.

While the COI preface states that the reports do not attempt to resolve discrepancies between information provided in different source document,

For example, in Nigeria an article cited from Spartacus International Gay Guide 2009 is cited: ‘Lagos had a *number of gay bars, and mixed dance clubs and fitness studios where gay people could meet; Lagos is probably the most vibrant city of Sub Saharan Africa.* Other reports such as voice of America 2012 News article (para. 21.24) state that ‘Nigeria is a dangerous place to be gay. Activists say homosexuals are hunted, threatened and ostracised. In the Nigerian Capital, there are no gay, bars, clubs or cruising strips and many locals will tell you there are also no gay people.’ Where such strong contradictions arise, it would be good practice to at least highlight the contradiction.

COIS: We are considering how to provide more clearly set out information and guidance to decision makers.

Our standard practise is to place contradictory information together, wherever possible.

b) Content and completeness - the extent to which relevant available information on the situation of LGBTI persons has been reflected in the COI Report.

• Legal information

Inaccuracies

Many COI report included the correct legal information, but some provided incorrect or confusing information, and could have been presented more clearly.

For example, in Gambia the section on legal information is poorly structured, contains incorrect and incomplete information. In the Libya report, Para. 20.05 repeats information on the law, but is incorrect and outdated (last updated in 2007).

While inaccuracies in the sources are not attributed to the COI researcher, if primary legal sources are available in English and online, confusion on the legal framework stemming from inaccurate sources can be avoided by just citing the primary source.

As a general comment, information on the provisions of the Penal Code should be regrouped, for better readability and to avoid repetition. There was a tendency in many of the COI reports to repeat provisions describing the Penal Code, which sometimes had the undesired effect of confusing the legal framework.

Examples of structural comments on legal framework

India: *the description of the Penal Code provision (provided in para. 22.05) should be presented upfront in the legal section, to provide context to the description of the High Court ruling relating to its application.*

Iran: *It would be good to present this information first, and cite the relevant provisions of the Penal Code and of the Civil Code, given that these are available online (MEHR website) and in English.*

Iraq: *Many different sources stating that same-sex relations are not illegal are cited; it would be good to regroup the information to present a condensed and clear description of the legal framework.*

Moreover, when the Penal Code or other law is available online (and in English), it is good practice (observed for some COI reports) to include a link to it in the report. Some COI reports include a hyperlink to the Code, which is a good practice. Particularly in cases where confusion does arise due to discrepancies in sources, it would be good practice for the COI researcher to cite the primary law in these cases.

Sources bringing confusion to the legal framework should also be avoided. For example a source cited at para. 21.14 (fourth paragraph) of the Nigeria COI report cites a blog entry stating that a bill against same-sex marriage ‘is described as law that is in effect’ and then later says ‘that has not happened, unless occurred without being reported publicly’. This issue is discussed in multiple relatively reliable (and more recent) confirming that the bill has not yet passed, therefore the added value of this source is questionable.

Some COI reports explain explicitly how the law would apply to gay men and to lesbians, such as in Pakistan, which is a good practice. The India legal section for example does not refer to lesbians at all.

Legislative updates

Another good practice noted is a legal update on a legislative bill in the India COI report, following a very clear description of the bill, and surrounding debate.

Prosecution

The COI reports do not consistently include information on prosecution rates, and often this information is included in the section on State treatment. In cases where information on prosecution is reported, care should be taken to refer to the most recent and confirmed prosecutions first (for e.g. in Iran this is not the case, and the official cases are reported at the end of the legal section).

Presentation of other charges

Quite a few reports include information on non-discrimination laws (or lack of). Not all reports include information on other charges.

Application of religious laws (or cross-reference)

Application of Sharia for example in relevant countries is not always well presented (or appropriately cross-referenced to relevant sections of the report). For example, in Gambia it is not presented, in Iraq the report refers to self-proclaimed Sharia judges but says nothing more on the topic.

- **Treatment by and attitudes of state authorities**

For the most part most COI reports included information on State view and treatment of LGBTI. The focus was often on gays however. Very little information was provided on the situation in the military, and while some sources provided useful information on detention conditions this was not done systematically.

- **Societal treatment and attitudes**

Reports very much varied on this section, with some reports containing excellent information such as Albania and Zimbabwe.

Information was often lacking on attitudes from the medical sector, including on HIV/AIDS and links to sex work, as well as issues of media censorship and the religious perspective (which can mostly be achieved by cross-references to other sections of the report).

- **Other relevant information**

Some COI reports included geographical nuances, including Iraq which is a good practice when assessing asylum claims and identifying persecution risks from a regional perspective. This was not consistently done.

Moreover, some reports included a perspective on class and how this affected treatment/attitudes towards LGBTI, including in Pakistan, which is good practice and could be followed in other reports.

Views on transgender

In many COI reports, information on transgender persons was lacking or incomplete, and information on intersex was hardly reported (except for e.g. in Pakistan, India, Bangladesh where the hijra group lead to more reporting on this issue).

In the few countries where information is provided on transgender persons, such as Pakistan, Bangladesh, Albania, India, Vietnam, Iran, the information could be updated, in particular with information on mental health, access to health care, and greater clarity on the legal status.

Lesbian

In many countries very little information specifically relating to lesbians and women is presented. Where no information is available, it is good practice to at least include a cross/reference to the Women section to provide contextual information (most Women sections of the COI reports reviewed do not address and specific LGBTI issues).

Finally, some reports contained separate sections on lesbians and transgender. To avoid repetitions and place these issues in the context of issues concerning gays, the information could also be mainstreamed under the main headings,

COIS: As noted by the reviewer, publicly available material about LGBTI persons in many countries, particularly regarding lesbians and trans and intersex persons, is often very limited. A lack of information in turn effects the length and detail of many reports.

We will in future be more consistent in stating where information has not been found.

c) Structure

Many comments on the report relate to structure. The structure of the reporting template is often not followed. It is recommended that under each major heading (*Legal Rights, Treatment by and attitudes of state authorities, Societal treatment and attitudes*), subheadings for each group be included.

This would make for a more comprehensive structure, allowing for identifying more quickly the situation from different perspectives for each group. Where the information overlaps, cross-references to different sections should be made.

Information on the same issues should be regrouped, and organised to achieve a logical flow of information.

A good practice on structure is the Zimbabwe report.

Other issues on structure:

- No sub-headings, or inappropriate subheadings (i.e. a subheading ‘Christian’ for a section reporting on Muslim and Christian attitudes in Nigeria)

- Information not regrouped and cited throughout the report, leading to repetition and confusion
- Not organising paragraphs by topic
- Citing less recent sources first
- Some issues addressed are not specific to the country

COIS: We will make sure that future country information products covering LGBTI persons follow the template more consistently.

We are in the process of reviewing our country information and guidance products. Future products are likely to focus on the main issues arising in asylum casework, which may not include LGBTI persons for all countries covered. However, decision makers will continue to have access to an information and guidance request service for countries or issues not covered in standard products.

V. Suggested LGBTI Source material

National/international compiled human rights research (*many, but not all, of the country documentation packages include a specific entry on treatment of LGBTI persons*)

- Austrian Centre for Country of Origin and Asylum Research and Documentation – Austrian Red Cross
<http://www.rotekreuz.at/118n/en/organise/accord7>
- Dutch Ministry of Foreign Affairs- country information
<http://www.minbuza.nl/nl/actueel/ambtsberichten,index.htmlEuropean> (in Dutch)
-
- European Country of Origin Network, <http://www.ecoi.net/> provides COI on many countries from which refugees originate.
- Immigration and Refugee Board of Canada National Documentation Packages:
http://www.irb-cisr.gc.ca:8080/Publications/index_e.aspx
- United States Department of State Annual Country Reports on Human Rights Practices:
<http://www.state.gov/g/drl/rls/hrrpt/2009/index.htm>;
- The Office of the United Nations High Commissioner for Refugees
<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

LGBT specific international sources

- The International Gay and Lesbian Human Rights Commission (IGLHRC, <http://www.iglhrc.org/cgi-bin/iowa/content/bycountry/index.html>) *compiles information, including news reports as well as organizational evaluations, of the situation for LGBT persons in individual countries. This is a good resource as it collects news reports of incidents against LGBT individuals that can counter the silence of the authoritative foreign office reports.*
- International Lesbian and Gay Association (ILGA) *Section on ‘countries’ where links are provided to relevant press releases and reports by country.*
Latest ILGA Report:

ILGA State Sponsored Homophobia, A world survey of laws: Criminalisation, protection and recognition of same-sex love Lucas Paoli Itaborahy & Jingshu Zhu, May 2013, http://www.ecoi.net/file_upload/90_1369137119_ilga-state-sponsored-homophobia-2013.pdf

- Globalgayz.com- *The website GlobalGayz.com collects news reports from around the world that relate to LGBT-issues. Some countries are more robustly represented than others. Not always comprehensive, but can serve as a helpful starting point. However it does not appear to be regularly updated.*
- LGBT Asylum News (<http://madikazemi.blogspot.com/>) contains some posts about the situation on the ground in countries of origin.

Other sources

- Asylum Research Consultancy (ARC), <http://www.asylumresearchconsultancy.com/>
- Amnesty International: <http://www.amnesty.org/en/human-rights>
- Human Rights Watch: <http://www.hrw.org/en/publications>
- Center for Gender & Refugee Studies (CGRS), <http://cgrs.uchastings.edu/>
- Electronic Immigration Network <http://www.ein.org.uk/>
- International Crisis Group, <http://www.crisisgroup.org/fr.aspx>
- Fahamu Refugee Programme <http://www.refugeelegalaidinformation.org/bangladesh-lgbti-resources>
- International Association of Refugee Law Judges and European Union. <http://iarlj.org/general/?view=featured>

COIS: Thank you.

VI. Country reviews

1. Afghanistan

COI Report 15 February 2013 (reissued on 8 May 2013)

(i) Review of LGBTI section COI Report

Overall Assessment

While information on LGBT persons is limited in Afghanistan due to the deeply taboo nature of non-conforming sexuality and gender identity, this is an average report.

In particular, in the section on *Societal Treatment*, inappropriate information is cited, with a greater focus on same-sex behaviour rather than sexual identity, and inclusion of irrelevant information.

COIS: See comments at the end of the country review.

A cross-reference in the LGBTI section is made to the Women section 25, which includes information on domestic violence against women, the status of women in society, including personal laws such as marriage and custody, which while not addressing LGBTI issues specifically provides good context to supposed implications of having a gender identity.

To what extent were comments from 2008 review addressed?

Many of the points made below were made in the 2008 review of the COI report, but do not seem to have been taken into account. The report cites some of the same irrelevant sources that were highlighted as inappropriate in the 2008 review.

COIS: It would be helpful if the reviewer stated which points made in the 2008 review have not been addressed as there have been a number of changes and improvements to the content and structure, as acknowledged in some of the reviewer's comments in this section.

Understanding of LGBT issues; content and language

Many of the sources cited in the section on Societal Treatment reflect a poor understanding of LGBT issues. Although the report mainly cites sources, the researcher should be discerning as to what to include, using information that is relevant, knowledgeable and accurate. The researcher should avoid stereotyping or restating ignorant views, even if these are set out in the sources available.

Inclusion of this type of information reflects a lack of understanding of gender and sexuality issues in Afghanistan (see section on *Societal Treatment* for specific issues).

COIS: See comments at the end of the country review.

Quality and balance of sources; LGBT perspectives

There are very few sources available on LGBTI issues in Afghanistan. However, despite the paucity of data, they should still be selective on the use of information available. Some of the inappropriate sources included are also out of date. While it is ok to justify the use of an older source in cases where no other data is available (the researcher has provided such a justification), the source must still be relevant and appropriate.

The report uses mainly international sources. Given the lack of data, the FCO could be contacted for further information (if available).

COIS: See comments at the end of the country review re appropriateness of sources.

As stated in the preface, we aim to use sources issued within two years of a report's publication; older sources have been included because of the lack of more recent material and which we consider are still accurate and relevant. We note that the reviewer does not indicate the material referred is inaccurate, rather that is not relevant.

Review of each section:

Legal information

The section on *legal rights* and *State treatment* are on the whole fine. The information on LGBTI issues in Afghanistan is scarce, and the researchers have explicitly stated the lack of data especially with regard to lesbian, bisexual, transgender and intersex persons.

A full provision of the Penal Code is provided, which is good practice. The report also provides an explanation of the law, which is especially important as criminalisation of same-sex relations is referred to as 'pedastry'.

The report also provides a reference to Sharia law, and cites relatively recent sources on the lack of prosecution of LGBTI persons.

Para. 23.03 citing UNHCR eligibility guidelines repeats the same information as that cited in para. 23.02.

Para. 23.04 provides a general analysis of the effect of criminal laws prohibiting same-sex relations, regardless of whether they are enforced. This is not specific to Afghanistan, but considering the paucity of information on LGBTI rights in this country, it provides useful ideas. However, as with all quotes, it should be tailored to be relevant to Afghanistan (i.e. the last sentence 'lack of explicit criminalisation of same-sex sexual activity does not prevent LGBTI persons from facing extreme violence' is not relevant).

The report states that no further information was obtained regarding bi-sexual, trans and intersex persons, which is a good practice. However, more information could have been provided on the legal framework applicable to LGBTI persons, including (lack of) anti-discrimination laws.

Treatment by, and attitudes of, state authorities

The information cited provides a good explanation of scarcity of data, and of NGOs remaining underground and lack of State protection. This is placed in the context of strong social taboos.

The section also reports that no further information was obtained regarding bi-sexual, trans and intersex persons, which is good practice.

Societal treatment and attitudes

This section cites sources on social taboos and how deeply hidden same-sex relationships are in Afghanistan. However, much of the information conflates same-sex relations with sexual identity. Many of the cited sources are outdated. Sources cited also contain inappropriate information, as described below:

Reference to men having sex with young boys, for example, in para. 23.10 'the report also detailed a disturbing practice in which older 'men of status' keep young boys on hand for sexual relationships...' or para. 23.11 'the source knew of commanders who were known of having relationships with young boys'.

Men having sex with young men or boys in situations where there is limited access to women (for example due to strict gender segregation), in situations where they can assert power, or where this is a traditional practice, is not the same as gay identities in the sense of being attracted to, and seeking to engage in a relationship with a person of the same sex. This type of information should be omitted from quotes.

In para. 23.11, a Danish Immigration Service report is cited, and while it is dated (November 2004) the COI report justifies its use given the paucity of information. This justification is a good practice. However, the quote in para. 23.11 stating that 'behaviour between men which would arouse curiosity in many western countries, such as holding hands, kissing or embracing is not considered explicitly sexual behaviour in Afghanistan due to the strong degree of separation between sexes, is not relevant to LGBTI persons as it refers to gender conforming non sexual relations between men in Afghanistan.

While a cross-reference is made to the women section, more information specific to LGBT persons could be provided on family pressures (including to marry), statements from religious leaders, for example (see suggestions of sources below). For more information to include, see template for analysis.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 25 on women includes a sub-heading on sexual orientation and gender identity (25.72), which has a cross-reference to the LGBTI section 23; however no further information is provided under this subheading.
- Section 7 refers to societal discrimination based, among grounds on gender and sexual orientation as one of the main human rights problems.
- Other sections on health, military, or religion, do not specifically address LGBTI issues.

(iii) Suggested sources

- LGBTnet Afghanistan (information on legal framework of same-sex relations) updated up to July 2012 <http://www.lgbtnet.dk/countries/asia/afghanistan>
- Reporting on book by Hamid Zaher "It is your enemy who is dock-tailed" (2009), describing being gay in Afghanistan <http://www.bbc.co.uk/news/world-asia-21426632>; <http://hamidzaher.authorsxpress.com/>
- GlobalGayz, Gay Afghanistan, After the Taliban. Homosexuality as Tradition, By Richard Ammon, Maura Reynolds, and Lou Chibbaro, updated 2008, <http://www.globalgayz.com/gay-afghanistan-after-the-taliban-homosexuality-as-tradition/>
- Wikipedia – LGBT rights in Afghanistan http://en.wikipedia.org/wiki/LGBT_rights_in_Afghanistan#cite_note-2
- Sixteen years old girl become a boy in Afghanistan, by Hamayoun Mahzon, The Lahore Times, 18 February 2013, <http://www.lhrtimes.com/2013/02/18/sixteen-years-old-girl-become-a-boy-in-afghanistan-145864/>. More information on: <http://www.advocate.com/society/youth/2013/02/24/why-trans-kid-afghanistan-jubilant>
- Gay Afghan men face exile or marriage in conformist masculine society, The Guardian, 10 September 2012 <http://www.theguardian.com/commentisfree/2012/sep/10/gay-afghan-men-exile-or-marriage?newsfeed=true>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information on Afghanistan and will take account the comments and sources above in future products covering LGBTI persons.

We do not agree with the reviewer's main criticism that information about sexual relationships between men is without relevance or is inappropriate to this section. A number of sources refer to the relative frequency of same-sex behaviour between

men but that there also exists societal intolerance of individuals who have a gay 'identity'. This may be confusing to caseworkers because it is so different from a 'western' perception of physical contact and relationship. We have decided to include this material in order to provide some cultural context to assist decision makers in understanding the distinction between same-sex behaviour and identity, and how these are perceived differently in Afghan society.

2. Albania

COI Report, 30 March 2012

(i) Review of LGBTI section COI Report

Overall Assessment

This is a good report. It contains a specific section on lesbians and transgender persons, which is good practice. The information from these sections could have been included as subheadings under the main headings of the LGBTI section.

Cross-references to relevant parts of the COI section are provided in the report, including to the women section, which is good practice.

More information could be included especially on access to healthcare for transgender persons (see suggestions in review of sections below).

To what extent were comments from 2008 review addressed?

For the most part suggestions from the 2008 review seem to have been addressed, especially regarding more information on transgender persons (although more information could be included –see below), use of LGBT specific sources, cross-references to women issues and support services.

Recommendations for more information on attitudes and availability of medical treatment, HIV/AIDs do not seem to have been followed, although information is available on this (see sources below).

Understanding of LGBT issues; content and language

The report uses broadly appropriate content and language, and reflects a good understanding of LGBT issues.

Quality and balance of sources; LGBT perspectives

The report uses relatively up to date sources, including USSD, Amnesty, ILGA, Canadian Immigration and Refugee Board, as well as a local source (Pink Embassy).

Many sources from 2010 are cited. Given that a strong focus of the report is on discrimination issues (in relation to discrimination laws adopted in 2010), it would have been useful to provide some sources from 2011/2012, rather than a majority from 2010.

Review of each section:

Legal information

Good description of legal rights applicable to LGBTI persons in Albania, including lack of laws recognising same-sex partnerships and adoption, (lack of) hate crime/hate speech provisions factoring sexual orientation/gender identity, freedom of assembly.

Effect of anti-discrimination laws: while the anti-discrimination legislation has not been in place for long (adopted in 2010), a 2010 source cited in the section on State Treatment (22.07) from the

Immigration and Refugee Board of Canada suggests that the new legislation has not yet had any effect – in this instance a more recent source than 2010 (if available) would have been useful, or at least a confirmation that no further cases had been identified in 2012 two years following the adoption of anti-discrimination laws. The ILGA Europe Feedback commenting on Commission 2011 Progress Report on the ‘limited progress in implementing the anti-discrimination’ law (para. 22.19) should be included in the section on legal rights, or at least cross-referenced.

The report cites an ILGA 2012 source on legal gender recognition of trans people, stating ‘Albania has no administrative procedures for legal gender recognition’. The report could be more specific on the actual law governing this issue. A 1997 source (Press for Change) states that sex changes are prohibited and new gender not recorded on the certificate. The researcher could attempt to find updated information of this to have a clear view of the legal situation.

The report could also mention the amendment to the Criminal Code to take aggravating circumstances into account for offences relating to gender and sexual orientation among other discrimination grounds.

For other issues to include, see template for analysis. In particular, information on personal laws (i.e. Reference to the Albanian Family Code; Law on Reproductive Health regulating to explain any rights of fertility treatment for lesbians, for example), or cross-references to relevant sections of the COI report could be included.

Treatment by, and attitudes of, state authorities

On the whole, the section is well structured, but more recent sources than 2009 could have been included. The report does not include sub-heading for particular LGBTI groups.

As part of the enlargement strategy regular monitoring is carried out by the European Commission. See the 2011 European Commission Albania Progress Report pgs. 18-20 http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/al_rapport_2011_en.pdf While ILGA Europe provides Feedback on the progress report (cited at para. 22.19), citing the progress report directly would be more informative.

Information on police brutality (para. 22.18) reported in Pink Embassy shadow report in a separate section on Transgender persons (but applicable to LGBT in general) should have been included or a cross-reference included under the section on treatment by, and attitudes of State authorities.

The report could also include attitudes towards LGBT organisations and Pride events

Societal treatment and attitudes

This section is well structured, with sub-headings on support services, lesbians and transgender persons, which is a good practice. This section provides good information on discrimination in employment, societal pressures for lesbian women and transgender persons, good description of lack of employment opportunities and links with sex work, harassment (although other cases were reported in Council of Europe Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity - Sociological Report: Albania (2010) (source below), multiple discrimination (link with Roma issues).

Many of these issues are presented in list form and could be elaborated on - see Council of Europe Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity - Sociological Report: Albania (2010) (source below) or more updated source for further information on these issues.

For other issues to include, see template for analysis. In particular, further information should also be included on medical issues, including access to health care, hormonal ‘treatment’ for being gay, and

access to healthcare for the transgender persons (especially access to health care, lack of provisions for gender reassignment in medical sector) (see ILGA source below).

(ii) Sensitivity to LGBTI issues in other sections of the report

- The women section includes information on discrimination (including in relation to custody rights), and violence against women including domestic violence, which provides good context to the LGBTI section especially when assessing the situation for lesbians. No specific issues relating to gender identity and sexual orientation are provided in the Women section.
- Several reports surrounding a gay parade, including incitement to violence from an Albanian Cabinet Member on gay pride celebrations, as well as information on the gay parade held on 17 May 2012 and controversy surrounding the event, is reported in the section on ‘Latest News – Events in Albania from 1 March to 30 March 2012’ on p. 8 which is good practice.
- Section 18 on Human Rights Institutions, organisation and activists, also includes information on LGBTI activists.
- No specific LGBTI perspective is provided in other sections of the COI report.

(iii) Suggested sources

- ILGA EUROPE, ‘Finally the left wing SP talks about LGBT in the Albanian Parliament’, February 2013 (includes information on Access to health care for transgender community, hormonal treatment) http://www.ilga-europe.org/home/guide_europe/country_by_country/albania/finally_the_left_wing_sp_talks_about_lgbt_in_the_albanian_parliament.
- Submission by Aleanca LGBT, Transgender Europe and ILGA-Europe on the 8th report by Albania on the implementation of the revised European Social Charter (Article 11 -- The right to protection of health - Access by transgender persons to gender reassignment treatment). *This source highlights the failure of the Albanian authorities to provide the medical facilities for gender reassignment treatment (or the alternative of such treatment abroad), and to ensure that medical insurance covers, or contributes to the coverage of such medically necessary treatment, on a non-discriminatory basis:* http://www.coe.int/t/dghl/monitoring/socialcharter/Reporting/StateReports/CommentsILGAAlbania2013_en.pdf.
- Council of Europe Study on Homophobia, Transphobia and Discrimination on Grounds of Sexual Orientation and Gender Identity - Sociological Report: Albania (2010) http://www.coe.int/t/Commissioner/Source/LGBT/AlbaniaSociological_E.pdf
- Albania, 2013 Commission Progress Report, http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/albania_2013.pdf.
- Aleanca LGBT (local NGO). See for e.g. ‘I’m Every Lesbian’ Audio Tour, by Sofia Hultin, (Documented lesbian history in Tirana), <http://www.aleancalgbt.org/en/news>.
- The Universal Periodic Review The situation of lesbian, gay, bisexual and trans (LGBT) people in Albania, Submitted by: PINK Embassy / LGBT Pro Albania, Alliance Against Discrimination of LGBT Albania, ILGA-Europe, Date: 3 September 2013

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information and guidance on Albania and will take into account the comments and sources above in future products addressing LGBTI persons.

3. Bangladesh

COI Report, 31 August 2013

(i) Review of LGBTI section COI Report

Overall Assessment

The report is presented as a list of extracts and could be better structured for better readability and flow.

The report refers to violence against hijras, but could include more information about their rights (including property; voting), as well as (availability and legality of sex change operations.)

To what extent were comments from 2008 review addressed?

Recommendations to include information on the legal status of transgender persons are addressed although transgender rights could be presented in clearer manner.

Some recommendations were not taken into account, such as cross-reference or inclusion of information on legal and social status of hijras, availability of sex change treatment. Information on access to health and welfare services is provided in section 26 on medical issues. This report was positively reviewed in the 2008 review.

Understanding of LGBTI issues; content and language

On the whole the report demonstrates a fair understanding of LGBTI issues, however some inappropriate information on gays and lesbians is included in the section on *societal treatment, and attitudes* section (see review under relevant section below).

Quality and balance of sources; LGBT perspectives

The sources used include a balance of international and local sources. However, quite a few sources are outdated, especially sources used for the section on *treatment by, and attitudes of the State* (dated from 2003 and 2008), and on *societal treatment and attitudes* (source dated from 1996 and 2008). For suggestions of more recent sources for these sections, see section on sources below.

NB: it is useful to present different sources concerning an issue to obtain a clear understanding and different perspectives on a topic. However, with regard to the applicable framework, if the Penal Code is cited directly, it is not necessary to cite different laws stating the same thing. Especially if the law is cited using a primary source (for e.g. an excerpt from the Penal Code), citing the primary source by itself is sufficient.

The hyperlink to more information on hijras in para. 21.03 does not work.

Review of each section:

Legal information

On the whole, the section on *legal rights* presents a good picture of rules applicable to same-sex persons, including the Penal Code and Constitution, and the lack of anti-discrimination rules. However, the rules could be presented more clearly and better structured. Information is missing, including with regard to transgender persons, and some inappropriate/irrelevant information is included.

Specific points are highlighted below:

The report cites a recent ILGA report quoting the relevant section 377 of the Penal Code criminalising same-sex relations (male and female). Given that an English translation of the Bangladeshi Penal Code is available online, it would be better to include a direct excerpt of the Penal Code, or at least provide a hyperlink to the code (see sources below).

Para. 21.03 - The report cites a Citizens Initiatives CEDAW-Bangladesh report stating that the law ‘is also used to prosecute cases of child sexual abuse since existing rape laws do not recognize male to male rape. That is rape is understood to be a heterosexual phenomenon, both culturally and legally’. Information on the use of the law to prosecute child abuse and male to male rape is not very relevant to presenting the legal situation for LGBTI persons.

The same source under para. 21.03 repeats a lot of the information on the Penal Code which is already comprehensively presented through the ILGA source at para. 21.02.

The reference in para. 21.03 to the Fourth Round of the Universal Periodic Review in February 2009 (including the denial of the existence of homosexuality by the Foreign Minister), should be placed under the section on *treatment by, and attitudes of, State authorities*.

Para. 21.04 – relating to persecution by State agents of LGBTI persons should be cited in the section on treatment by, and attitudes of, State authorities.

Other charges used to arrest/prosecute LGBT persons:

A brief reference in the quoted CEDAW source at para. 21.04 is made to State Agents relying on Section 54 (arrest without warrant for ‘suspicious behaviour’), but the source does not specify it is **section 54 of the Criminal Procedure Code**. As this is linked to the way LGBTI persons are prosecuted/persecuted, it should be presented in a more prominent way. In the 2008 COI report, Article 54 is presented upfront in the Legal Rights section, with an explanation that it may effectively criminalize the status of being a kothi or any man who has sex with men. This approach should be taken for future reports.

A reference to section 86 of the Dhaka Metropolitan Police Ordinance (and related provisions in the police ordinances applicable to other Metropolitan cities) which are commonly used to harass persons using public spaces should also have been in the legal rights section in a more prominent way. Para. 21.15 (in section on treatment by, and attitudes of, State authorities) cites a source from Ain o Salish Kendra (ASK) containing useful information on the lack of prosecutions, how the legislation may have other side effects (e.g. blackmail), and reliance on Article 54 of the Criminal Procedure Code and Section 86 of Dhaka Metropolitan Police Ordinance should feature in the Section on Legal Rights.

Para 21.05: the US State Department quote on societal discrimination should be placed in the Societal Treatment section.

Para. 21.06 on identification of transgender persons as ‘other on passport’ should be placed in the section on treatment by, and attitudes of, State authorities.

Para. 21.09 on class, education, family issues should be reported under Society issues.

Para. 21.10 provides comprehensive information about the Constitution. The text is not placed in inverted commas and seems to be the words of the COI researcher. The researcher should be careful about the wording and be legally precise. The phrase ‘nor did the State make illegal hate crimes based on sexual orientation’ could be read as meaning that the State have not committed illegal hate crimes. This would be better phrased as ‘nor did the State criminalise hate crimes.’ The same paragraph refers to prohibiting discrimination based on sexual orientation and to discrimination in employment based on sexual orientation. The former encompasses the latter and does not need to be repeated.

Para. 21.11 relating to military conscription should be placed in the section on treatment by, and attitudes of, State authorities.

Issues such as the inability to vote or to inherit property faced by Hijras could be included (See 2010 report from Immigration and Refugee Board of Canada cited under sources below), or a cross-reference to section on hijras.

Legal rights applicable to transgender persons are not referred to either, including the availability/legality of gender reassignment.

The section could also include information on the application of Sharia law.

Treatment by, and attitudes of, state authorities

Para. 21.12 cites a 2003 HRW report on ill-treatment by police officers and Mastans. A more recent source could be cited, and the information could be better structured. Within the same HRW quote, information on discrimination at work and schools should be placed in the *societal treatment and attitudes* sections as it is not relevant under the heading ‘ill treatment by police officers and Mastans’.

More recent information on harassment by State bodies could be included, including information on issuance of local fatwas against the LGBT community. The article from *Himal Southasian* (see source below) refers to reports of "harassment by vigilante groups and the issuance of local fatwas against the LGBT community" (Mar. 2008).

Good practice in linking the information to issues on HIV/AIDs and sex work.

Societal treatment and attitudes

Para 21.17 – the report cites an old source from Himal Magazine from July 1996 but claims that it is still relevant. Part of the quote states ‘male prostitutes are available in most towns. And in rural areas, homosexuality is generally considered something that young people do for fun and some elders may do in secret. Male homosexuality is tolerated despite religious sanction’ Not only is this source outdated, with questionable accuracy, but it does not seem to be corroborated by any recent sources.

The ensuing paragraph on lesbians is also not very clear and relevant: ‘it is a different story for lesbians [...] although it is no secret that dormitories record incidences of lesbianism [...] it is kept a secret fearing loss of marriage prospects [...] literature has recorded a high incidence of shakhi culture, where proximate friendship develops between two women in which emotions are at least romantic and may lapse into touching... psychologists say many shakhis may be substitutes for boyfriends’. This does not provide useful information on lesbians in the country,

Researchers should not include entire quotes, and be selective and analytical on the sections they do include, using elliptic points ‘[...]’ to cut out information that is out of date, inappropriate and/or irrelevant (either with regard to LGBTI rights and/or with regard to the particular section, subsection or point being addressed in the paragraph).

A more recent source reporting on societal treatment of lesbians should be used in any case. See for brief information on Fahamu Refugee Programme website (see source below).

Para. 21.19 – information on the attitudes from the Foreign Minister should be placed in the section on *treatment by, and attitudes of, State authorities*.

This section does not include information on violence towards Hijras/ transgender persons being particularly vulnerable to harassment (See 2010 report from Immigration and Refugee Board of Canada cited under sources below).

The 2008 COI report included some interesting information on discrimination faced in employment (this is also reported In 5 March 2010 correspondence with the Research Directorate, the Refugee Coordinator of Amnesty International (AI) in Toronto) (see sources below). This would be useful information to include.

For other points that could be included, see the template for analysis. In particular, mental healthcare for LGBTI persons, and information on religion (or cross-references), as well as attitudes and treatment of human rights defenders (see suggestions of sources below).

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 26 on medical issues, in a subheading on ‘access to treatment and welfare services’, refers to sexual health services run by the The Bandhu Social Welfare Society to the gay community and to campaign for greater openness and legitimacy for this community (para. 26.14). It refers to treatment for sexually transmitted diseases, or for psychological services, or for general health services. Information on health is also included in section 21 on LGBTI issues, and the medical section makes an explicit cross-reference to section 21. These are good practices.
- Section 26 on medical issues, subheading HIV/AIDS, Prevalence and national response, includes information on prevalence of HIV among MSM and Hijras, which is very good practice (para. 26.12).
- Section 24 on children referring to victims of child sexual abuse and exploitation includes statistics on transgender children (para. 24.23).

(iii) Additional sources

Laws:

- Constitution: http://bdlaws.minlaw.gov.bd/pdf_part.php?id=367
- Penal Code: https://www.unodc.org/tldb/pdf/Bangladesh_Penal_Code_1860_Full_text.pdf

Studies:

- Country of Origin Research and Information (CORI), March 2012, <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=50618c6f2&skip=0&query=bangladesh>
- International Gay and Lesbian Association, Homophobic tendencies still abound in south Asia, 11 February 2011, <http://ilga.org/ilga/en/article/mQA910J1Qp>
- Bangladesh: Treatment of homosexuals including legislation, availability of state protection and support services (includes information on hijras, including legal rights), [Immigration and Refugee Board of Canada](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&category=&publisher=IRBC&type=&coi=BGD&rid=&docid=4dd1122f2&skip=0), 19 July 2010. <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&category=&publisher=IRBC&type=&coi=BGD&rid=&docid=4dd1122f2&skip=0>
- Fahumu Refugee Programme, Bangladesh LGBTI Resources, accessed 2 December 2013, <http://www.refugeelegalaidinformation.org/bangladesh-lgbti-resources#sthash.FFoD4ybf.dpuf>

Websites:

- *Badhan Hijra Sangha* (social welfare NGO which provides support to transgender people in Bangladesh, focusing on health care, human rights awareness and vocational training. <http://www.bandhu-bd.org/lgbt.html>
- ILGA Asia <http://ilga.org/ilga/en/organisations/ILGA%20ASIA#>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information and guidance on Bangladesh and will take into account the comments and sources above in future products addressing LGBTI persons.

4. China

COI Report, 12 October 2012

(i) Review of LGBTI section COI Report

Overall Assessment

The overall quality of the report is good, although more information could have been added in the section on legal rights (see below), health (which could be achieved through a cross/reference to medical section 28) and other contextual information (which could be achieved through cross-references to women section).

The report could also be better structured, using subheadings for different LGBTI subgroups within the main headings from the template for analysis. The report has separate sections on *legal rights*, *State treatment*, *societal treatment*, *lesbians*, and finally *transgender issues*. This leads to repetition for example in the section concerning lesbians, where the legal framework for same-sex relationships (applicable to male and females) is repeated from the *legal rights* section. Information on State intervention in gay pride events in the section on lesbians also repeats information included in the section on *treatment by, and attitudes of, State authorities*.

To what extent were comments from 2008 review addressed?

With regard to suggestions made in the 2008 review, sources on lesbians have been included, although a cross-reference to the women's section is not made, more LGBT specific sources are used (mainly ILGA). The 2013 report also includes a specific section on transgender persons, responding to the comment of lack of information on transgender persons in the 2008 report.

There is still little information provided on age of consent, as recommended in 2008 review, abuse and extortion in detention centres, cross-reference to HIV/AIDS, medical sector, information on pressure to conform, domestic violence, honour crimes, LGBT persons in sex work.

Understanding of LGBT issues; content and language

The report shows a good understanding of LGBTI issues, content and language.

Information on gay and lesbian organisations activities and societal disapproval is provided. Cross-references to other sections would have provided good contextual information.

No reference to intersex group, or reference to lack of information in this area.

Quality and balance of sources; LGBT perspectives

The reports cited are quite recent, and present a balanced view. More cross-references to other sections could have been included. Some LGBT specific sources are cited (mainly ILGA).

More local sources could have been used (see section on sources below).

Review of each section:

Legal information

The report presents comprehensive information on the legal framework applicable for same-sex couples, including family law.

It also refers to the (lack of) anti-discrimination laws, and cites the IGLHRC 2010 report stating that 'discrimination continues to be written into many different areas of law in China' (22.01). However, apart from family law, this section does not refer to any other such areas of law.

Areas of law to include would be:

- Laws on human fertility in China (i.e. banning of artificial insemination.)
- Laws on media/freedom of expression (broad restrictions on the diffusion of LGBT related content across all sections of the media).
- Lack of inclusion of sexual orientation/gender identity in employment anti-discrimination law (this is particularly significant given anecdotal evidence that much of the blackmail and extortion used against LGBT people is contingent upon threats to reveal a person's sexuality to their employer or colleagues).
- Discriminatory laws on blood donation.

For information on the above see IGHLC study cited in the report: <http://www.ighlrc.org/binary-data/ATTACHMENT/file/000/000/395-1.pdf> (see also sources below).

Para. 22.04 reporting on attitudes by the government towards same-sex relationships should be placed in the section on treatment by, and attitudes of, State authorities.

A cross-reference to information on LGBT persons being detained and charged under offences of suspected prostitution and pornography should be included in the section on legal rights, as well as a description of the offence provisions/punishments (provided under section treatment by, and attitudes of, State authorities). This is particularly important given that, as the report outlines in the section on treatment by, and attitudes of, State authorities, these offence provisions are used to prosecute/blackmail LGBTI persons in the absence of laws criminalising same-sex relations.

Transgender persons

Pertinent information on the legal framework applicable to transgender persons is provided, including specific provisions for gender reassignment. More information could be included on the offence related to disturbing the public order (described in para. 22.21) or prostitution (described in para. 22.22) (including punishments set out in the offence provision), given that examples of targeted police action appear to be based on these charges.

Treatment by, and attitudes of, state authorities

The report provides a good description of police treatment, arbitrary detentions, and extortion, citing sources using relatively recent examples, as well as reports of internet censorship/surveillance, attempts to freedom of expression and association including towards gay pride movements, LGBT performances/festivals.

A bit more information could be provided on police extortion when in detention, on the issue of underreporting of these events (see p. 21 of the 2009 IGHLC study cited in the report – see also sources below).

More information could also be included on public health campaigns on HIV/AIDS (i.e. whether education is targeted at LGBTI persons), as well as on the censorship of LGBTI art and film.

Further information could also be included on education, including the reference to sexuality in the regulations on the prescribed personal, health and sexual education curriculum for Chinese students, and problems in registering LGBT student societies in University.

<http://www.ighlrc.org/binary-data/ATTACHMENT/file/000/000/395-1.pdf>

Societal treatment and attitudes

The report provides relevant information on societal discrimination and family pressures, including pressure to conform to family expectations, and difficulties in coming-out.

However, it does not report on practical consequences of this (i.e. pressure to marry etc.). More information on this would be useful.

The section on lesbians (para. 22.17) suggests that women are freer, but does raise issue of pressure to marry. The section on lesbians provides some information on the context of women in Chinese society, i.e. them being a more ‘invisible’ group. A cross-reference to the women’s section would be useful here for more contextual information.

For other information to include, see the template for analysis. In particular, more information on LGBTI persons in sex work, attitude of the medical sector, LGBTI support (some of which could be cross-referenced from other sections of the COI report).

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 12 on prison conditions reports on improvement in protection of prison inmates, including elimination of bans on ‘homosexuality’ (para. 12.07).
- Section 28 on medical issues, sub-heading HIV/AIDS, reports on stereotyped links between same-sex relations and HIV/AIDS, leading to greater stigmatisation of LGBTI persons (paras. 28.06 and 28.13). It also refers to HIV prevalence among MSM (para. 28.04). A cross-reference to these sections could have been included in the LGBTI section 22.
- The women section 24.26 refers to same-marriage (para. 24.25). The rest of the women’s section does not specifically address lesbian issues, but provides useful contextual information for LGBTI issues.
- The rest of the COI report does not include any specific LGBTI perspectives.

(iii) Suggested sources

- Pink Space Sexuality Research Centre (articles in English): <http://www.pinkspace.com.cn/Art/index.asp>
- For a good description of LGBTI activists/information sources: <http://www.womenofchina.cn/html/womenofchina/category/145546-1.htm>
- The Legal Status and Position of Lesbian, Gay, Bisexual and Transgender People in the People’s Republic of China Tom Mountford. IGLHRC, 2009, <http://iglhrc.org/sites/default/files/395-1.pdf> (NB: already cited in the report, but not all relevant information is cited)

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information and guidance on China and will take into account the comments and sources above in any future products covering LGBTI persons.

5. Eritrea

COI Report, 18 September 2013

(i) Review of LGBTI section COI Report

Overall Assessment

The section on sexual orientation and gender identity is very short, it focuses mainly on same-sex relations, and repeats facts from different sources. It is not structured and has no headings.

The report focuses on the legal aspects, and needs more details on State and societal treatment, as well ability for LGBT community to live openly. Transgender, intersex, and women are not considered in the report. No reference is made to bisexual persons either.

At the very least the report should state that relevant information has not been found under the different headings, to demonstrate that they have been considered, and cross-references to other sections of the report including the women section would be useful.

To what extent were comments from 2008 review addressed?

The recommendation to update sources was taken into account and sources cited in the September 2013 report are relatively recent. The description of the legal framework has improved, using a recent ILGA source

However, the recommendation to include information on prosecutions (or on unavailability of information) is not addressed, except a general statement that ‘there were no reports that the government rounded up individuals considered gay or lesbian’ (para. 20.02).

Information that was reported to be missing in the 2008 report is still lacking in the 2013 report, in particular details on State/societal treatment, ability to express an LGBTI identity. This is likely due to the scarcity of information available, particularly due to the severe consequences of being out in Eritrea.

COIS: There continues to be a lack of reliable information about the human rights situation in Eritrea generally and on LGBTI persons in particular.

Understanding of LGBT issues; content and language

The report cites paragraphs from UNHCR, US State department, and ILGA sources, mainly reporting on the legal situation for same-sex relations. The report reflects an adequate understanding of LGBT issues, even though details of State/societal treatment and consequences of having a gender identity lack detail.

Quality and balance of sources; LGBT perspectives

The sources are up-to-date, and include quotes from the US State Department, UNHCR, and ILGA. More local sources, such as NGOs (including from neighbouring countries) are not considered.

There appears to be a paucity of information on LGBTI rights and societal/governmental treatment. It may be necessary to approach the FCO to undertake further research.

No specific information on women (nor any cross-reference to the women’s section) is provided, nor is information on transgender/intersex persons included, including the fact that these were considered and no information found.

Review of each section:

Legal information

The report cites a recent ILGA, US State Department and UNHCR source, indicating the legal situation for consensual same-sex relations, including the legal reference, penalties, (lack of) antidiscrimination laws relating to LGBT persons, and a lack of willingness from the Eritrean Government to legalise same-sex relations. No information is provided on prosecution rates however.

No specific reference is made to transgender/intersex persons.

No reference to laws surrounding family life is provided. Sources to consider (on prohibition of adoption for same-sex couples): <http://eritrea.adoption.com/>

Treatment by, and attitudes of, State authorities

Very little information is provided and this section needs to be elaborated.

The report comments that there are no reports of government abuse and violence against gays and lesbians. It also cites a UNHCR source confirming that only limited information is available on the treatment of LGBTI individuals in Eritrea, but refers to abuse in the army and periodic round ups of LGBTI individuals.

No concrete examples are provided, although it is possible that very little information is available.

A brief search reveals an incident of the expulsion of an Italian teacher for being gay in Eritrea (see GayStar news article in suggested sources below). This type of information is a useful indication of State attitudes towards LGBTI issues.

Views of the Eritrean government attitudes towards LGBTI persons could also be included (see sources below).

Societal treatment and attitudes

Very little information is provided and this section needs to be elaborated.

A UNHCR source is cited (para. 20.03) to refer to societal discrimination, and confirms that only limited information is available on the treatment of LGBTI individuals in Eritrea, which is good practice.

The report cites a US State Department source (at para. 20.02) reporting that society stigmatizes the discussion of LGBT issues. No other information is provided to elaborate and substantiate this.

See template for analysis for other issues to include, including information about societal violence, honour crimes, medical sector, HIV/AIDS, religious authorities and women (or cross/reference to relevant sections for context).

Information on the State/societal treatment of LGBTI persons, data on arrests and prosecution (if any), and specific information on transgender, intersex and transgender are missing from the report. Sources on this are difficult to find, and the FCO could be approached for any further information.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 19 on Ethnic groups, under societal treatment and attitudes (para. 19.08) includes a quote from Freedom in the World 2013 asserting that that LGBT individuals ‘face legal and social discrimination due to the criminalization of homosexual conduct.’ It is not clear how this fits under the heading on Ethnic Groups and would fit better in section 20, especially given the paucity information in this section.
- A letter from 2010 from the British Embassy in Asmara is annexed to the report (Annex G) and includes information on negative societal and State attitudes towards ‘homosexuality’, lack of data on prosecutions, and provides information on implications of being out. Section 20 on LGBTI issues should include a cross-reference to Annex G.

NB: with the use of the term ‘homosexuality’ in Annex G, it is not clear whether this applies to gays and lesbians, or only gays. It would be useful to clarify this.

- Section 7 on general human rights issues refers to the criminalisation of consensual same-sex activity (para. 7.02) which is a good practice.
- LGBTI issues are not specifically addressed in other parts of the report. An LGBTI perspective would be particularly useful in section 24 on Medical Issues, section 21 on Women and section 9 on Military.

(iii) Suggested sources

- Italian educator working in North Africa deported for being gay, by Jean Paul Zapata, 13 May 2013, Gaystarnews <http://www.gaystarnews.com/article/italian-educator-working-north-africa-deported-being-gay130513>;

- Gay Life in Eritrea, compiled by Richard Ammond, February 2012, Global Gayz, <http://www.globalgayz.com/gay-life-in-eritrea/>;
- Immigration and Refugee Board of Canada, Eritrea: Legislation and Legal Protection Available to Homosexuals, 28 February 2007, <http://www.unhcr.org/refworld/docid/469cd6b815.html>;
- University of Calgary, African Resources Index by Countries, Eritrea, <http://www.ucalgary.ca/sw/ramsay/africa/somalia-djibouti-eritrea.htm#Eritrea>;
- Eritrea questioned over anti-gay laws, April 2010, <http://madikazemi.blogspot.be/2010/04/eritrea-questioned-over-anti-gay-laws.html>
- Information on laws on adoption in Eritrea: <http://eritrea.adoption.com/>.

COIS: Thank you for the comments and recommendations. We are in the process of reviewing our country information and guidance on Eritrea and will take into account the comments and sources above in future products addressing LGBTI persons.

6. The Gambia COI Report, November 2013

(i) Review of LGBTI section COI Report

Overall Assessment

This report is quite average, and considering the proportion of asylum seekers currently claiming asylum based on sexual orientation in the UK from the Gambia, researchers should pay particular important that information from this section be complete and accurate.

In particular, the section on legal information is poorly structured, contains incorrect and incomplete information. More information and cross-references could also have been provided in the sections on State and Society treatment. See assessment of sections below and suggestion of sources.

The report should also be restructured, e.g. by including information on charges/prosecution in the legal rights section.

Understanding of LGBT issues; content and language

The information provided in the *legal rights* does not allow for a clear understanding of the legal framework,.

Overall, the language used is ok, although the use of the term ‘homosexual’ in the sentence presenting the PR Log source should be replaced by ‘gay’. Suggestions for additional content are included below under the headings for analysis.

Quality and balance of sources; LGBT perspectives

The report uses mainly international non LGBTI specific sources. Suggestions of sources, including local sources such as Freedom Newspaper are included below.

Review of each section:

Legal information

The legal framework applicable to LGBTI persons is poorly presented.

A variety of sources, some contradicting themselves, repeating themselves or incorrect are cited. While inaccuracies in the sources are not attributed to the COI researcher, if primary legal sources are

available in English and online, confusion on the legal framework stemming from inaccurate sources can be avoided by just citing the primary source.

For example, the first source from the USSD 2012 Report (para. 10.01) is cited as saying ‘the law establishes prison terms... for any man who commits in public or private any act of gross indecency (...). **There was no similar applicable to women**’. This is incorrect. The Criminal Code Section 147(2) (as amended by the 2005 Act amending the Criminal Code) provides: that ‘any female person who, whether in public or private, commits any act of gross indecency with another female person, or procures another female person to commit any act of gross indecency with her, or attempts to procure the commission of any such act by any female person with herself or with another female person, whether in public or private, is guilty of a felony and liable to imprisonment for a term of five years. Section 147(3) further specifies that ‘act of indecency includes any homosexual act’.

Note that section 147(2) and (3) were introduced by the Act to amend the Criminal Code in 2005 <http://www.ilo.org/dyn/natlex/docs/SERIAL/75299/78264/F1686462058/GMB75299.pdf>

In para. 10.03, the foreign travel advice is quoted as saying ‘**although there are no laws specifically covering homosexuality**, the Gambian Criminal Code state that any person who has or attempts to have carnal knowledge of any person against the order of the nature is guilty of a crime’. This is a law covering same-sex relations. Article 144(2)(c) even specifies that ‘carnal knowledge of any person against the order of the nature’ includes ‘committing any other homosexual act with the person’.

The Act amending the Criminal Code in 2005, also included an amendment to Article 144(1) to replace the term ‘male’ with the term ‘any’. Since 2005, the provision applies to both male and females.

<http://www.ilo.ch/dyn/natlex/docs/SERIAL/75299/78264/F1686462058/GMB75299.pdf>

Copies of the Criminal Code (in English) published in the Gambian Gazette are available on the ILO website.

http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=GMB&p_classification=01.04&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY

Researchers should be careful when citing provisions of the Criminal Code, as the pdf link to the Criminal Code on the ILO website pasted above is not a codified version (i.e. it does not incorporate the relevant recent amendments, including those made in 2005). The amending acts therefore also need to be checked.

Information on the criminalisation of cross-dressing is repeated throughout the section. It would be good to place this under a discreet subheading of cross-dressers, and not conflated with other issues.

Para. 10.04 cites an ILGA 2013 report analysis of the effect of criminal laws prohibiting same-sex relations, regardless of whether they are enforced. This is not specific to the Gambia, but does provide some relatively useful background for asylum claims. However, as with all quotes, it should be tailored to be relevant to the Gambia. The second part of the quote, that ‘the absence of, or repeal of criminal proscriptions absolutely must not be taken as establishing the reverse proposition, etc.’, does not apply to the Gambia and would not be useful to assess asylum claims.

Given information on charges of conspiracy to commit a felony cited in the section on *treatment by and attitude of State authorities* (para. 10.08), the related offence provisions should be outlined in the section on *legal rights*.

Information on charges and prosecution of offences of ‘unnatural offences’ should be included in the section on *legal rights* or at least a cross-reference made to them (see para. 10.08).

The report states that no legal information was available on intersex and transgender persons, which is good practice.

The legal framework on sex relations outside of marriage, sex work, freedom of speech and association is not presented either. This could be achieved through a cross-reference to relevant sections of the report.

A reference to the application of Sharia law in Gambia could also be mentioned.

The brief information on the (lack of) anti-discrimination laws cited in the section on *treatment by, and attitudes of State authorities* (para. 10.07) should be included in the section on legal rights.

Treatment by, and attitudes of, state authorities

The report cites recent sources on the President's homophobic attitudes, including his stance of no gays in the military. More information on threats and persecution could be included, including his order to motel and hotel owners to refuse to rent rooms in which gays could 'commit unnatural acts'. <http://www.refugeelegalaidinformation.org/gambia-lgbti-resources>

With regard to the information on the arrest of 18 men and two women in April 2006 cited in para. 10.08, a bit more information could be provided on evidence issues. See ILGA source on police officer testimony <http://ilga.org/ilga/en/article/nDXHT31Hu>

Other cases, such as the arrest of two women and a Nigerian man charged on the offence of indecent practices could also be referred to: <http://ilga.org/ilga/en/article/nusbCtS1k7>

Information on President Jammeh urging members of the Alliance for Patriotic Reorientation and Construction (APRC) to not allow same-sex persons to stay in their compounds (On May 23, 2009) which was denounced by IGLHRC as a direct violation of the Gambian Constitution which states that everyone is entitled to equal access to adequate housing could also be included, <http://iglhrc.org/content/gambia-action-alert-%E2%80%93-condemn-attacks-right-housing>

Education on AIDS by the National AIDS Secretariat (NAS) could also be included, and attitudes of the government to People Living with HIV/AIDS (PLHA). See address of Director of NAS, who said HIV infection is associated with behaviours (such as same-sex, drug addiction, prostitution or promiscuity (see sources below).

This section contains a cross-reference to the section on women, and explicit acknowledgment that no information has been identified on State treatment of lesbians, bi-sexual, transgender or intersex persons, which is good practice.

Information on religious leaders stance on LGBTI persons could also be included (if available), or a cross-reference made to the section on religion in the report for contextual information.

Societal treatment and attitudes

The report cites information on societal treatment and attitudes mainly in the context of the aftermath of the trial where 18 men were arrested initially on charges of indecent practices, including pressure to marry to preserve family honour and stigma.

The report could also include information of reactions from religious communities. According to Human Rights Watch: 'Other prominent Gambians have echoed Jammeh's statements. On May 29 (2008), Alhaji Banding Drammeh, president of the Islamic Council of Gambia, told the Associated Press news service: "We thank President Jammeh for leading the battle against homosexuality in Africa. Our culture and religion are totally incompatible with this phenomenon."

(ii) Sensitivity to LGBTI issues in other sections of the report

- LGBTI issues are not addressed specifically in the report other than in section 10 on sexual orientation and gender identity.
- In particular, an LGBTI perspective would be useful in section 14 on Medical Issues (including HIV/AIDS and mental health), section 12 on Women, and section 7 on human rights institutions, organisations and activists (to highlight lack of LGBTI groups).

(iii) Suggested sources

- Police testify against gay men arrested in Gambia, Gaystarnews, 19 July 2012 <http://www.gaystarnews.com/article/police-testify-against-gay-men-arrested-gambia190712>
- Gambia's Gays & Lesbians' Trial Adjourned, Jollofnews, 24 April 2012, <http://www.jollofnews.com/human-rights/3234-20120424gambias-gays-a-lesbians-trial-adjourned->
- Religious Leaders In Gambia Condemn Gay Marriage, Jollofnews, 21 July 2013 <http://www.jollofnews.com/society/3893-religious-leaders-in-gambia-condemn-gay-marriage>
- Jammeh Threatens To Sack Gay And Lesbian Soldiers In GambiaSays Lesbianism Is A Taboo In The Military, by M Faye, and Ebrima Jallow, Banjul, Freedom Newspaper, December 2009, <http://www.freedomnewspaper.com/Homepage/tabid/36/mid/367/newsid367/4714/Breaking-News-Gambia-Jammeh-Threatens-To-Sack-Gay-And-Lesbian-Soldiers-In-Gambia/Default.aspx>
- Gambia LGBTI Resources, FAHAMU Refugee Programme <http://www.refugeelegalaidinformation.org/gambia-lgbti-resources>
- Gambia, Police Officers Testify in 'Homo' Case, ILGA, 20 July 2012, <http://ilga.org/ilga/en/article/nDHXHT31Hu>
- Two women and a man arrested in the Gambia on gay charges, 13 April 2012, ILGA
- <http://ilga.org/ilga/en/article/nusbCtS1k7>
- Gambia's Gays Face Discrimination in Exile, by Robbie Corey-Boulet, 24 October 2013 (Includes information on detention condition) : http://www.huffingtonpost.com/2013/10/24/gambia-gays-exile_n_4158111.html
- Coalition for Change The Gambia website: <http://changeambia.org/category/c79-press-releases/page/14/>

COIS: Thank you for the comments and sources. We will correct the factually inaccurate information on the law relating to lesbians in the existing report. In regard to the other comments, we are in the process of reviewing our country information on Gambia and will take your recommendations into account in future information/guidance products addressing LGBTI persons.

7. India

COI Report, 30 March 2012

(i) Review of LGBTI section of COI Report

Overall Assessment

Overall this is a fair report. While the report provides useful information on the legal framework and information on implications on having a gender identity in India, more information could be included (for example on personal status laws, anti-discrimination laws, police violence, access to health – see analysis below) to provide a complete and balanced view of LGBTI situation in India.

The structure for the COI analysis is not followed. It is recommended that under each major heading (*Legal Rights, Treatment by and attitudes of state authorities, Societal treatment and attitudes*), subheadings for each group be included. This would make for a more comprehensive structure, allowing for identifying more quickly the situation from different perspectives for each group. Where the information overlaps, cross-references to different sections should be made.

To what extent were comments from 2008 review addressed?

Many recommendations made in the 2008 do not seem to have been followed.

The recommendations to provide contextual legal information about personal laws or cross-reference to women's section is not addressed, nor are recommendations to provide more details of harassment and violence by the police (and whether this is more common in some places than others), information on military and prisons, societal violence, honour crimes, contextual information on legal, economic, social status of unmarried women and men.

The 2008 review also highlighted the good practice of mentioning electroshock therapies in mental health institutions and welcomed more details. No reference to this issue is made in the 2012 report. Nor is more information on access to healthcare provide as was recommended in the review.

The suggestion to provide more legal information on transsexual/transgender persons is partly addressed insofar as the report includes information on the recognition of gender identity in official documents. More information could be included however, for example on legal framework governing SRS.

More information on hijras and their position is provided, although more information could have been provided on health issues. The report does provide more detailed information on ability of LGBT persons to express their LGBTI identity.

Understanding of LGBT issues; content and language

On the whole the report demonstrates a reasonable understanding of LGBTI issues and for the most part language. Para. 22.21 refers to 'sexual minorities'; a more appropriate term would be LGBTI persons.

Quality and balance of sources; LGBT perspectives

The report uses a balance of international and local sources. More LGBTI specific sources could be used (see suggestions of sources below).

Review of each section:

Legal information

The legal information concerning same-sex relationships is comprehensively presented. The sources are current and diverse (including local sources).

The report cites the Delhi High Court ruling declaring that Section 377 of the Penal Code should be applied in cases of non-consensual sex and sex involving minors (paras. 22.01; 22.02); reactions and challenges to the ruling (para. 22.03); post deliberation on the legality of the ruling (para.22.04), and a note at the end of the *Legal Rights* section with an update that as of March 2012, Section 377 is still in force in India (with the exception of the union territory of Delhi). There is a logical flow in the reporting of this issue. The future update of this COI report should include information on the recent Supreme Court Ruling (11 December 2013) reversing the High Court Decision and reinstating the provision (see suggested sources below).

The description of the Penal Code provision (provided in para. 22.05) could be presented upfront in the legal section, to provide context to the description of the High Court ruling relating to its application.

The legal section does not however refer to any legal provisions protecting LGBTI persons, such as anti-discrimination laws. Nor does it refer explicitly to lesbians.

Moreover, information on personal laws, such as private life/age of consent/marriage and divorce could be included, or at least a cross-reference to women section. While same-sex marriages are not legal in India, some court judges have recognized marriages between two lesbians (see sources below).

Specific to transgender and intersex persons

A separate section is provided on transgender persons.

In para. 22.13, the report provides a link to a lecture from the Indian Supreme Court on the legal situation of transgender persons. The link leads to a general webpage of ALF Lawyering for Change, but a transcript of the lecture could not be found. Para. 22.14 refers to information on the possibility for transsexual persons to register as ‘other’ on official documents, and the recognition as transgender identity. (NB: the footnote no. 126^a in para 12.14 also leads to a general webpage of ALF Lawyering for Change, the text of the lecture could not be found).

A reference to access to education and the recognition of transgender as a third sex in Tamil Nadu is also provided at 22.15.

Other legal issues such as the legal aspects of gender reassignment could be included, including the legal grey area concerning the legality of Sex Reassignment Surgery (Section 320 of the Criminal Code criminalises the emasculation of a person and falls under the definition of grievous hurt; however, Section 88 provides an exception where an action is undertaken in good faith and the person gives consent to suffer that harm. See p. 462 of the NUJS Law Review ‘Crystallising Queer Politics-The Naz Foundation Case and Its Implications For India’s Transgender Communities’ (sources below).

A comprehensive description of legal status of intersex (Hijras), and (lack of) access to most rights is provided in the separate section on transgender persons.

It would make for a more accessible report if these specific elements relating to legal rights of transgender and intersex persons were included under the heading *Legal Rights* (rather than grouped together under a general heading ‘transgender’).

Societal and government attitudes

Treatment by police and by society are reported jointly. It would be good to separate the information according to the headings indicated in the template for analysis. It would also be useful to have some sort of structure in the section, and to report on different topics separately.

Information on societal treatment and attitudes:

The report provides pertinent information on implications of living with an LGBTI identity in India, and introduces geographical/class nuances in attitudes, which is a very good practice.

Many sources cited are not up to date, and date from 2008 and even from 2003. At 22.08, a source from 2003 is cited from the Australian Department of Foreign Affairs reporting social tolerance of ‘homosexuality’. While this source provides useful information on living with an LGBT identity, including regional and class nuances, a more up to date source would be useful (see source suggestions below).

A source cited at para. 22.09 on lesbians reports on the issue of societal and family pressure to marry. More context could be given on this, or a cross-reference made to the women’s section.

Good practice of including commentary from local NGO (NAZ) on the impact of the Delhi High Court Judgment on social attitudes (para. 22.11).

Transgender community

A very general description of hijras and traditional place in society and harassment faced is provided in a heading of *transgender communities*, including a description of changes over the last decade. Good description of access to rights is provided in 22.18.

There is also a reference in para. 22.20 to a major fire which killed and injured hijras. There is no evidence suggesting that the fire was targeting the hijras intentionally. It is not clear how this type of information fits in a section on LGBTI rights. Researchers should focus their research on legal/government/societal treatment that can be a ground for persecution of LGBTI persons.

No information on sex-ork, or other human rights/health issues for hijras, such as high rates of HIV/AIDS is provided. The NUJS Law Review "[Crystallising Queer Politics-The Naz Foundation Case and Its Implications For India's Transgender Communities](#)" (see sources below), provides extensive description on discrimination and other issues faced by intersex persons in India.

Information on State treatment:

The report provides information on political attitudes in the context of the reaction to the report of Commission on HIV/AIDS (paras 22.11; 22.12).

Little information on discrimination and violence is included. Nor is treatment in the military, prisons, protection against societal violence. No information is included on mental health, electroshocks.

The report cites a statement from a gay activist reported in the Hindustan Times (July 2010) 'as you can see, the police and the public are not concerned with what we are doing' (22.10). However, there are reports (see sources below) on police arrests and violence and these should be included in the COI report to provide a balanced view.

Specific to transgender community

The report refers to government initiatives to integrate transgender persons in Tamil Nadu (i.e. para. 22.15), more information could be provided on government initiatives and support/State attitudes towards transgender community at a Federal level. The report refers to difficulties for transgender persons to obtain medical treatment (para. 22.06), but could elaborate on this.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 4 on *recent developments, overview of significant events* from June 2010 to 16 March 2012, refers to the Delhi High court 2009 judgement.
- Section 18 on *human rights institutions, organisations and activists*, refers to discrimination and harassment towards LGBT rights defenders, including societal and police attacks, extortion and unlawful assembly charges. The source cited specifies that this is especially the case in rural areas, which is good practice (para. 18.07). Less detailed information is included in section 22 (see para. 22.06). It would be useful to include a cross reference to para. 18.07 in section 22.
- LGBTI issues are not specifically addressed in other sections of the COI report, including the general description of human rights section 7 (although LGBTI may not be seen as a priority human rights issue); section 10 on military service; section 26 on women, and section 27 on medical issues.

(iii) Suggested sources

- India's Supreme Court Restores an 1861 Law banning Gay Sex, by Garder Harris, The New York Times, 11 December 2013, http://www.nytimes.com/2013/12/12/world/asia/court-restores-indias-ban-on-gay-sex.html?_r=0

- 7 creative (legal) reasons the Supreme Court found not to strike down Section #377, by Prachi Shrivastava Wednesday, 11 December 2013, <http://www.legallyindia.com/201312114184/Constitutional-law/7-reasons-the-supreme-court-didnt-strike-down-377>
- The Bangalore Queer Film Festival 2010, by Danish Sheikh Monday, 29 March 2010, <http://www.legallyindia.com/News/The-Bangalore-Queer-Film-Festival-2010>
- Crackdown on gay party in Saharanpur, 13 held, Pervez Iqbal Siddiqui, TNN Dec 28, 2010, http://articles.timesofindia.indiatimes.com/2010-12-28/india/28251262_1_saharanpur-management-student-gay-party
- Violence against LGBT groups still prevails in India, ILGA Europe, 30 November 2013, <http://ilga.org/ilga/en/article/ooEKTUd1Gh>
- In a first, Gurgaon court recognizes lesbian marriage, 29 July 2011, http://articles.timesofindia.indiatimes.com/2011-07-29/gurgaon/29828761_1_gurgaon-court-lesbian-marriage-legal-marriage
- India's first married lesbian couple given 24 hour protection, 26 July 2011, <http://www.telegraph.co.uk/news/worldnews/asia/india/8662082/Indias-first-married-lesbian-couple-given-24-hour-protection.html>
- ILGA news section on India <http://ilga.org/ilga/en/countries/INDIA/>

On Transgender persons:

- Historical Background and Legal Status of Third Gender in Indian Society, Preeti Sharma, IJRESS Volume 2, Issue 12 (December 2012) <http://www.euroasiapub.org/IJRESS/dec2012/7.pdf>
- Indian transgender passes test before exam, ILGA ASIA, <http://ilga.org/ilga/en/article/opIDee41S9>
- NLSIU and Bangalore University push for inclusion of transgenders in law schools, by Kian Ganz Friday, 23 July 2010 <http://www.legallyindia.com/201007231132/Law-schools/nlsiu-and-bangalore-univ-push-for-inclusion-of-transgenders-in-law-schools>
- NUJS Law Review, 2 NUJS L. Rev 455 (2009) "[Crystallising Queer Politics-The Naz Foundation Case and Its Implications For India's Transgender Communities.](#)
- Lovers or criminals? Gay couple Deepak Kashyap and Jerry Johnson on Supreme Court verdict, Thursday, Dec 12, 2013 <http://www.dnaindia.com/mumbai/report-lovers-or-criminals-gay-couple-deepak-kashyap-and-jerry-johnson-on-supreme-court-verdict-1933582>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on India and will take account into the comments and sources above in future products addressing LGBTI persons

Iran

8.

COI Report, September 2013

- (i) Review of LGBTI section of COI report

Overall Assessment

The report is on the whole ok, with extensive information on State treatment and persecution. However, considering that Iran has been indicated by the IAGCI in the Project brief as a country from which a large number of LGBTI persons apply for asylum/human rights protection, a particular effort should be made at ensuring a thorough and complete overview. More information on transgender persons and lesbians should be included (see below for specific issues). The section on societal treatment could also be expanded, including more information on societal harassment, on the medical sector, implications of being out, as well as media coverage.

Some of the information could be restructured, with information on transgender persons and lesbians included under the main headings as set out in the template for analysis.

To what extent were comments from 2008 review addressed?

The report has improved since the review of the April 2008 bulletin although not all the recommendations were addressed.

Significant information on raids and arrests, detentions and forensic examinations which was reported to be missing in the 2008 review has been included in the 2013 report. Similarly, information on pressure on gays to undergo SRS has been included. Improvements were made to the transgender section to address more issues relating to implications of having a gender identity, such as stigma and harassment, but more information could be provided (see below). Sources provided are more up to date.

The following recommendations were not followed: no more information is presented on position of religious authorities, or cross-reference to their link with the judiciary. Little information on societal harassment and discrimination is included, as well as pressures leading to sex changes. As this is a significant human rights issues, this should be focused on. Attitudes of the medical sector, mental health are not included either, nor is much information on issues of forced marriage expressed or implications of being out.

The 2008 review recommended a more in depth perspective on women. While the report makes a cross reference to the women's section, more information relating to lesbians could be included.

Understanding of LGBT issues; content and language

The report demonstrates a reasonable understanding of LGBTI issues, and on the whole uses appropriate language, even though some use of the term 'homosexual' was noted at para. 21.20.

Quality and balance of sources; LGBT perspectives

Sources used are for the most part up-to-date, the report. Few (if any) local sources report on LGBTI issues in Iran. However, more LGBTI specific sources could be used (see suggestions of sources below).

Hyperlinks to studies are provided throughout the report, which is a good practice.

Transgender

The report has a separate section on transgender persons. While the section on transgender describes the issues of transgender persons having to remain discreet due to negative stigma, and also refers generally to the risk of police arrest and torture, it does not present a complete picture with regard to the procedure of gender reassignment (see issues to include below).

Lesbians

Very little information on lesbians is presented in the report. Text from an IGLHRC submission to the UN Human Rights Committee (para. 21.59) suggests that there is 'appallingly little documentation of the human rights violations experience by lesbians and WSW'. The same source refers generally to forced marriage, lesbians being forced into sexual acts with heterosexual men. It then describes generally the issue of domestic violence which is 'a reality of too many women's lives'.

Marital rape and threats experienced by lesbians should be presented in more detail and as a separate issue to domestic violence as a reality of women's lives (these issues are described in the women's section, but does not specifically focus on lesbians).

The Iranian Railroad for Queer Refugees (IRQR) documented cases of Iranian lesbians being forced into marriage, persecuted, becoming victims of extortion, "persuaded" to undergo hormone treatment

and/or sex reassignment procedure, take unnecessary medication for serious mental disorders, rape and torture (See ILGA 2010 report listed in suggested sources below).

The assumption in the source cited in para 21.59 of the COI report that ‘there is every reason to assume that women who transgress gender and sexual norms are equally if not more vulnerable to violence’ only partly addresses the issue of violence and discrimination faced by lesbian women in Iran. The section on lesbians should also be mainstreamed following the structure of the reporting template. As it stands, the short separate section on lesbians does not provide sufficient coverage in this area.

Review of each section:

Legal information

The report provides a clear explanation in para. 21.05 of the Iranian Penal Code including on the introduction of Book 5 in 1996. Para. 21.06 also refers to the articles of the Iranian Civil Code (including a hyperlink to the Ireland Human Rights Documentation Centre) relating to standards of proof. It would be good to present this information first, and cite the relevant provisions of the Penal Code and of the Civil Code, given that these are available online (MEHR website) and in English.

Legal rights are presented by citing extracts from recent ILGA, HRW, MERH and small media foundation sources. Many sources are used to repeat the same issue. For example, para. 21.02 cites an ILGA source observing that same-sex relations are illegal. Para. 21.03 cites a HRW source repeating the information.

Para. 21.09 refers to Iran’s New Penal Code which has not yet come into force. The source cited, HRW, informs that the ‘new Penal Code will continue to criminalise certain types of heterosexual/same sex sexual relations’. The COI report provides a hyperlink to the full HRW report. It would be useful if the researcher cited the relevant parts of the report indicating any changes (for e.g., the modification of the definition of lesbianism as an act where a “woman places her sexual organs on the sexual organs of [another woman].” (Art. 238 of the new code, p. 36 of the HRW report).

Legal issues reported in the separate section on *Transgender issues* should be included following the structure of the report, under a specific sub heading within the section on *Legal Rights*.

While a cross-reference to the section on charges, sentences and punishment (*in treatment by, and attitudes of State authorities*) is made in the *Legal Rights* section, it would be better to include information under this subheading in the section on *Legal Rights*.

It would also be useful to include information on laws regulating freedom of association and expression, or a cross-reference to the section in the COI report), and to the link of religious authorities with the judiciary (or a cross-reference). In particular, media censorship rules and how they impact on reporting LGBTI issues should be mentioned (see suggested source below, Media & the LGBT Community in Iran).

The *legal rights* section could also include information on other offence provisions used to charge LGBTI persons, such as ‘facilitating immorality and sexual misconduct’ (charges under these provisions are cited in para. 21.34 in the section on *treatment by, and attitudes of State authorities*).

Treatment by, and attitudes of, state authorities

Charges, sentences and punishment

This section provides extensive information on abuse, including issues pertaining to pre-trial procedures and detention. A cross-reference to death penalty section is provided at the end of the section, which is good practice. Most of the comments below pertain to structure.

As mentioned above, it would be better to include information under this subheading in the section on *Legal Rights*. Moreover, it would be useful to have a subheading just on *fair trial issues* (including information from paras. 21.10, 21.17), and a separate subheading on *charges, sentences and punishment*.

The information should be provided in a more logical order, with the most relevant information first. The first sources stated give an overall impression that no confirmed arrests, convictions executions solely on the ground of the Penal Code criminalising same-sex relations and that this is subject to debate and difficult to estimate. While this is useful information in that it explains how confirmed reports of execution constitute ‘only the tip of the iceberg’, it would be better to refer to the confirmed convictions and executions first. The first mention of confirmed convictions is made in para. 21.20 on the execution of three Iranian men on charges of ‘homosexuality’ (NB the report should avoid using this terms, and refer to charges of ‘same-sex relations’). Further information/comments on the latter case is provided in paras. 21.21, 21.22. Information on past confirmed executions is then presented in para. 21.23, and planned executions in 21.24. These sources relating to official convictions should be cited upfront and not at the end of the section.

Information presented between paras. 21.10 and 21.24 relating to prosecution and fair trial issues could be condensed where sources refer to the same cases/issues, to avoid repetition.

Para. 21.10 (first paragraph) and para. 21.19 (second paragraph) repeat information on the Penal Code.

Information from para. 21.18 relating to discrimination against LGBT community, social exclusion and access to rights should be cited in the section on *societal treatment*.

Arrest and ill treatment

This section provides detailed and up-to-date information on raids, arrests, State abuse, and surveillance. Information under this section could also be restructured for a more logical flow.

Information of surveillance (including online monitoring) reported in paras. 21.25 and 21.26, and later in para. 21.37 could be regrouped, and could even be placed under a subheading – surveillance /online monitoring.

Para. 21.32 (second paragraph) describes how ‘under the leadership of reformist president from 1997-2005 the publication of queer publication was allowed’. This is setting the background to show how the regime is now pursuing a more aggressive campaign under Ahmadinejad who is tracking down gays online. It would fit better in the following subsection on ‘views of state officials’.

Para. 21.34 on pre-trial conditions and charges following the raid of 2007 could also be included under *Legal Rights* section under a sub-heading prosecution and fair trial, or at least a cross-reference included to it. Para. 21.35 should also be included in the *Legal Rights* section under a subheading on prosecution and fair trial, or at least a cross-reference made.

Para. 21.38 – reference to abuse by family members and fears of reporting should be included in *societal treatment* section.

The report makes a cross-reference to section 17 on human rights activists and lawyers in para. 21.38 which is good practice as section 17 provides information on State abuse of LGBTI defenders. Information from para. 21.58 on reporting on the plans to arrest a member of CHRR for ‘taking up the issue of sexual minorities’, the imprisonment of some of its members and shutting down of the organisation could also be regrouped under the heading of State ill-treatment. Information on media censorship, including suspension of reformist newspapers could also be included.

Views of state officials

Para. 21.40 second sentence repeats para. 21.39 on Ahmadinejad's statement 'there are no homosexuals in Iran'. Paras. 21.42 and 21.45 should be placed after 21.40, as part of the same reporting on Ahmadinejad views on same-sex relations.

Paras. 21.43 and 21.46 should also be grouped, as they express the same idea on same-sex relations being regarded as an illness.

Information on Iran's gender reassignment programme (para. 21.41) should also be included under a discreet subheading, and not in between paragraphs reporting on views on same-sex relations. A cross-reference to the transgender section is provided, which is good practice.

Military service

The report has a separate section on military service, and includes hyperlinks to the full reports cited, which is good practice.

Societal treatment and attitudes

The report provides information on LGBT organisations, abuse against gay men from family, religious scholars, social stigma, difficulties in coming out (and reliance on internet which also presents risks) homophobia, and changes in attitudes even among conservative Muslims.

The section is rather short however, and could include more information on societal harassment, and how it contributes to gay and lesbians deciding to undergo sex changes. More information on the medical sector should also be provided, including information on access to healthcare and mental health. Issues of forced marriage, honour crimes, as well as more information on implications of being out should be cited (see sources below, including Guardian article on 'Growing up Gay in Iran').

Lesbians

This section is very short, and more information could be provided. In particular, marital rape and threats experienced by lesbians should be presented in more detail and as a separate issue to domestic violence as a reality of women's lives (which is addressed in the women's section).

The Iranian Railroad for Queer Refugees (IRQR) documented cases of Iranian lesbians being forced into marriage, persecuted, becoming victims of extortion, "persuaded" to undergo hormone treatment and/or sex reassignment procedure, take unnecessary medication for serious mental disorders, rape and torture.(see ILGA 2010 in suggested sources below):

Transgender persons (para. 21.60- 21.68)

(Comments on structure):

Information from this section should be placed under the main headings of the section 21 of the COI report.

Paras. 21.60 and 21-61 background to legal regime traditionally applied to transgender persons and change in situation following the fatwa in 1997 should be included in the section on *Legal Rights*.

Paras. 21.62-21.68 should be placed under the section on State treatment.

(Comments on content):

There is documented evidence of improperly conducted reassignment procedures; inadequate pre-surgery or post operation counselling; inability to have a real-life experience of one or two years in the desired gender contrary to the standards of care of the world professional association for transgender health; psychological impacts of reassignment; physical and psychological abuse from therapists/surgeons, inadequate training of medical professionals in LGBTI issues, etc. (See 2010 ILGA report in sources below). The 2013 COI report does not mention these issues.

More information on substandard sex reassignment surgeries/harassment from health care professionals should be included. See suggested sources below, including 2010 ILGA report, and Justice for Iran, “Denying Identities, Maiming Bodies: Human Rights Violations against Individuals of Diverse Sexual Orientations and Gender Identities in the Islamic Republic of Iran” (2012), prepared by Raha Bahreini and UNICEF report "Addressing Inequalities" Global Thematic Consultation at 23-34, available at <http://www.worldwewant2015.org/node/287187>.

Citing statements on efforts from the Iranian State in allowing the ‘crucial affirmation of their fundamental human rights’ without completing this with the above issues, gives an inaccurate and slanted picture of the reality for persons undergoing/having undergone gender reassignment. Such information should be included in the report.

Other relevant information

More information on media censorship could be included, especially in light of the scarcity of local sources reporting on LGBTI issues in Iran. The blog article on Muftah.org on ‘Media & the LGBT Community in Iran’ provides some useful insight on this topic: ‘Publicizing homosexuality is forbidden in Iran.... in practice, it has made Iran-based news media reluctant to report on the egregious mistreatment of LGBT people in Iran.’

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 7 on general human rights issues includes information on restrictions of freedom of expression and assembly, harassment by the State of LGBT rights defenders, discrimination of LGBT community in law and practice. This description could be more specific as, even just in light of the official executions, LGBTI suffer more than ‘discrimination’. Section 7 could also refer to the issue of encouraging sexual reassignment among gays and lesbians, which is a serious human rights issue. A cross-reference to the LGBT section is made in para. 7.15, which is a good practice.
- Section 9 on security forces, under amputation and floggings, a report of journalists being sentenced to prison and 60 lashes for ‘spreading lies’ in part for posting interviews with LGBTI individuals on his blog is mentioned at para. 9.59 and a cross-reference to this is made in Section 21 relating to LGBTI issues, which is good practice.
- Section 10 on military service, refers to military exemption for gay and transsexual persons (para. 10.03).
- A cross-reference to the LGBTI section is made in section 11 (Judiciary) and 14 (death penalty), which is good practice.
- Section 17 (Human rights institutions, organisations and activists) also refers to harassment, prosecution and torture of LGBT human rights defenders.
- Section 26 (medical issues), section 23 (women), section 16 (freedom of speech and media) do not specifically address relevant LGBTI issues.

(iii) Suggested sources

- Official Reveals Statistics For Sex Change Operations In Iran, ILGA 15 November 2013, <http://ilga.org/ilga/en/article/oniVO7s1Bi>
- Justice for Iran, “Denying Identities, Maiming Bodies: Human Rights Violations against Individuals of Diverse Sexual Orientations and Gender Identities in the Islamic Republic of Iran” (2012), prepared by Raha Bahreini <http://www.worldwewant2015.org/node/287187>
- Complicating Subjectivity and Transgression: An analysis of the Queer Movement in the Islamic Republic of Iran, by Niki Fayaz. IRQR. 8 November 2012, <http://english.irqr.net/2012/11/08/complicating-subjectivity-and-transgression-an-analysis-of-the-queer-movement-in-the-islamic-republic-of-iran/>

- Growing up gay in Iran, Mahmoud Ahmedinejad says there are no homosexuals in his country. This is the story of an invisible community, 13 January 2013, <http://www.theguardian.com/world/iran-blog/2013/jan/13/growing-gay-iran-tehranbureau> <http://issuu.com/smallmedia/docs/lgbtrepublic>
- Media & the LGBT Community in Iran, by Amin Mirsaeidi-Farahani, posted on Muftah.org blog on 15 July 2013, <http://muftah.org/media-the-lgbt-community-in-iran/>
- Submission to the Committee on Economic, Social, and Cultural Rights on the Examination of the Second Periodic Report of the Islamic Republic of Iran Committee on Economic, Social and Cultural Rights Pre-Sessional Working Group 48th Session, 21-25 May 2012 <http://www.iglhrc.org/sites/default/files/578-1.pdf>
- Human Rights Violations on the Basis of Sexual Orientation, Gender Identity, and Homosexuality in the Islamic Republic of Iran, 10 May 2011, <http://www.iglhrc.org/content/human-rights-violations-basis-sexual-orientation-gender-identity-and-homosexuality-islamic>
- Lesbians in Iran: Stories of Persecution and Torture, ILGA, 15 February 2010, <http://ilga.org/ilga/en/article/mi6UKgn1c6>
- Iranian LGBTs flee persecution via 'underground railroad', Marie Dozema, 17 May 2013, Globalpost. <http://www.globalpost.com/dispatches/globalpost-blogs/rights/iranian-lgbt-refugees-flee-persecution-underground-railroad>

Websites:

- Iran Human Rights Documentation Centre: <http://www.iranhrdc.org/english/>
- Iran Focus News and Analysis <http://www.iranfocus.com/en/>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Iran and will take into account the comments and sources above in future products addressing LGBTI persons.

9. Iraq

COI Report, 30 August 2011

(i) Review of LGBTI section of COI Report

Overall Assessment

The report is overall quite good, although the legal section could be a little clearer (see review of section below).

The report includes an overall cross-reference to the section on women which is good practice, and gives context for considering the position of lesbian and bisexual women in Iraq. Cross-references are also provided to sections on political factions, abuses by non-government groups, and security issues, which is a good practice as it allows for putting the issues into a national context.

Another good practice in this report is reporting on regional issues in Kurdistan, and specific information on areas in which violence occurred. This is important when assessing asylum claims and identifying persecution risks from a regional perspective. It would be good to include this information within the main headings of the reporting template, under discreet subheading 'LGBT persons in the Kurdistan Regional Government Area'.

To what extent were comments from 2008 review addressed?

Comments made in the 2008 review are for the most part addressed. The comment on structuring the legal section better could be further addressed. The comments on the superficial coverage of lesbians is partially addressed with cross-references to the women section, although while providing useful

context, the women section does not include specific information on lesbians. *The Treatment and attitudes of State authorities* and *Societal Treatment* sections still have a more prominent focus on gays. A source cited at para. 23.22 relating to lesbians also explains the lack of data on women and invisibility of lesbians, which is good practice: ‘most NGOs have concentrated on public, political patterns of homophobic attacks on men.. Amid this neglect, the question of whether and how violence targets women for non-heterosexual behaviours has been doubly neglected’.

Other issues raised in the 2008 review that have been addressed: sources have been updated, inclusion of legal information relating to transgender persons, cross-reference to section on women.

The 2008 also recommended including including information on religious courts/sharia. While the 2011 COI report refers to self-proclaimed judges, further information could be provided on this.

Understanding of LGBT issues; content and language

The report overall reflects a sound understanding of LGBTI issues. Intersex persons are not mentioned, although it is likely that little or no information is available on this subgroup.

Information on a rape law is reported in para. 23.05, with an explanation that while the title of the law is ‘Rape, Homosexual Acts and Assault on Women’s Honour’, the offence provision does not criminalise same-sex relations but is an attempt at a ‘gender neutral rape law’. This justification is not appropriate, as it not clear how including the term ‘homosexual acts’ makes the law gender neutral. It would be better not to include information relating to rape laws, unless in cases where rape laws are used to charge and prosecute same-sex relations.

Quality and balance of sources; LGBT perspectives

The sources used are for the most part from last two years of writing the report, mostly international sources (some with specific LGBT perspectives) are used. It would have been good to use some local sources as well (see suggested sources below).

Review of each section:

Legal information

The legal section uses up-to-date sources to describe the legal framework applicable to same-sex relations. Many different sources stating that same-sex relations are not illegal are cited; it would be good to regroup the information to present a condensed and clear description of the legal framework.

The information contained in the section could be restructured slightly to regroup the sources report on the following issues: legality of same-sex relations (paras. 23.01; 23.02), other charges which are used to prosecute LGBTI persons (paras. 23.02, 23.04, 23.05), rates of prosecutions under such other charges (para. 23.02), law on honour killing, their relevance to LGBTI persons and application in different regions (paras. 23.06, 23.07), law on protection from public insults which supposedly may include homophobia (para. 23.04), self-proclaimed sharia judges (para. 23.01), legal situation for transgender persons (para. 23.07).

Where possible the relevant points of information should be included only in the relevant section.

It would be useful to be more specific with regard to other charges used to prosecute LGBTI persons, including public assembly, obtaining a marriage certificate knowing it to be invalid, immodest act in public, laws on publishing ‘indecent material’.

Given that the Penal Code is available online (and in English), it would be a good practice to include a link in the report http://law.case.edu/saddamtrial/documents/Iraqi_Penal_Code_1969.pdf.

The Report refers to self proclaimed sharia judges in para. 23.01, further information could be provided on this as this is not referred to in other sections of the COI report.

Treatment by, and attitudes of, state authorities

The report contains relevant information on ill treatment of officials of LGBT officials and extortion, abuse by Iraqi police, as well as impunity and lack of actions by the State to protect, investigate and prosecute perpetrators of violence against gays. It also reports on intolerance of the government regarding LGBT persons, and denial that same-sex relations even exist.

As suggested in the 2008 review, the report could have a section on action by police or militias, rather than having the information distributed through various extracts.

For further information which could be included, see the template for analysis. However, given the political context of Iraq it may still not be possible to assess these.

Societal treatment and attitudes

Good cross reference at the beginning of the LGBT section to sections of the COI report on abuses by non-governmental groups, political factions and sectarian insurgency, security situation to provide context to national security situation.

The report contains information on prejudice fuelled by honour, patriarchal values on gender and sexuality, violence against gays, intolerance, incitement by Muslim clerics, abuse and persecution by the Mahdi Army, treatment of gay and transsexual persons, militia incitement by imams (23.19), violence, raids and blackmail (23.20)

The report (23.19) includes a reference to geographical location of most of the attacks in Baghdad Sadr city neighbourhood, which is good practice and useful for assessing asylum claims. Para. 23.20 specifies where the violence campaign was most intense (Baghdad), but also refers to violence extended to other cities including Kirkuk, Najaf and Basra, which is good practice.

Information cited in para. 23.20 repeats information on Iraqi police and security forces doing little to investigate or halt killings, no arrests/prosecutions.

Para. 23.21 provides good political context post Saddam era, including how wave of gay killings was made possible by breakdown of State control and rise of local militia. Para 23.22 provides a good explanation on lack of information available on lesbians, pressures to marry and invisibility of these women. Anecdotal accounts are also cited, including honour killings. In this case given the paucity of information on lesbians anecdotal evidence is useful, and it is good practice to specify that the information is anecdotal.

The report also includes information specific to the Kurdistan region, which is very good practice.

The Para 23.18 refers to treatment against gays and transsexuals and provides a link to a BBC video. The video does not address treatment of transsexual persons however. It is likely that very little information is available on transgender persons in Iraq, however the COI report should state this lack of data.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 8 presenting the security situation cites a UNHCR source referring to the targeting of (among others) LGBTI individuals.
- Section 12 (non-government armed groups), in referring to violence against particular groups contains a general cross-reference to the LGBTI section (by referring to the contents page).
- LGBTI issues are not specifically addressed in other sections of the report such as section 7 on general human rights (although LGBTI issues may not be considered a priority human rights issue in Iraq), and in other sections where LGBTI issues would be particularly relevant such as section 28 (medical issues) and section 25 (women).

(iii) Suggested sources

- Hell on Earth - LGBT Slaughter in Iraq and how YOU can stop it, 2 May 2012, Freedom Requires Wings, <http://www.freedomrequireswings.com/2012/05/hell-on-earth-lgbt-slaughter-in-iraq.html>
- Iraq: Torture, Cruel, Inhuman and Degrading Treatment of LGBT People <http://iglhrc.wordpress.com/2009/04/20/iraq-torture-cruel-inhuman-and-degrading-treatment-of-lgbt-people/>
- For a more local source, first LGBT organization in Iraq (now based in the UK) founded by Ali Hili in 2005: <http://iraqilgbt.org.uk/> (No information is available on the new website, but should be monitored; old website also contains press-releases and information: <http://iraqilgbtuk.blogspot.be/search?updated-max=2010-05-07T21:14:00%2B01:00>)
- Iraq: Police Unable to prevent Rising Violence Against Gays, posted by Women Against Shariah on 12 March 2012, <http://www.womenagainstshariah.com/2012/03/iraq-police-unable-to-prevent-rising.html>
- Human Rights Watch, 2009, "They Want Us Exterminated:" Murder, Torture, Sexual Orientation and Gender in Iraq <http://www.hrw.org/sites/default/files/reports/iraq0809web.pdf>
- International Gay and Lesbian Human Rights Committee, Iraq: Torture, Cruel, Inhuman and Degrading Treatment of LGBT <http://iglhrc.wordpress.com/2009/04/20/iraq-torture-cruel-inhuman-anddegrading-treatment-of-lgbt-people/>
Video: Ali Hili, founder of Iraqi LGBT, talks about the threat facing minorities in post-war Iraq <http://www.theguardian.com/commentisfree/video/2010/dec/13/iraqi-gay-rights>
- Witch-hunt in Iraq, Natalia Antelava, Peter Murtaugh, Bill McKenna, Daniel Nasaw 12 September 2012, BBC <http://www.bbc.co.uk/news/world-middle-east-19557895>
- Baghdad's persecuted gays have nowhere to hide, 11 September 2012, BBCm <http://www.bbc.co.uk/news/world-middle-east-19525133>
- Iraqi official: 'Misbehaving gays' should respect morals, 11 September 2012 <http://www.bbc.co.uk/news/magazine-19525135>
- Up to 100 killed in Iraq gay and emo massacre, 09 March 2012 | By Dan Littauer <http://www.gaystarnews.com/article/100-killed-iraq-gay-and-emo-massacre090312>
- 2012 Country Reports on Human Rights Practices: Iraq, Bureau of Democracy, Human Rights and Labor, U.S. Department of State, pages 49-50 <http://www.state.gov/documents/organization/204572.pdf>
- Iraq was already Hell for gays, now it's even worse, Il grande colibri, 22 April 2012, <http://www.ilgrandecolibri.com/2012/04/iraq-was-already-hell-for-gays-now-its.html>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Iraq and will take account the comments and sources above in any future products addressing LGBTI persons.

10. Libya

COI report 19 December 2012

- (i) Review of LGBTI section of COI Report

Overall Assessment

On the whole this report is very good, using recent balanced sources and presenting the situation for LGBTI persons in the post Qaddafi political context.

Good introduction, specifying that the section applies to LGBTI as a group, and includes a cross-reference to the women section, which is a good practice.

The report could be restructured slightly, with separate information on transgender persons and lesbians included under subheadings within main headings of the LGBTI section. This would avoid repetition of information, for example in the legal information section on LGBTI legal framework including transgender rights, and in para. 20.21 where the legal situation for transgender persons is repeated. Moreover, information cited in the *Societal treatment* section could be included or cross-referenced in the *State treatment section*, including on militia abuse.

Understanding of LGBT issues; content and language

The report demonstrates a good understanding of LGBTI issues, using recent sources which also use appropriate terminology.

Quality and balance of sources; LGBT perspectives

For the most part the sources used are up to date, and a good balance of International/local sources, some with LGBTI perspectives are used.

Review of each section:

Legal information

The legal section is very clearly presented, with extracts from the Penal Code, and a comprehensive summary by ILGA of the legal framework for LGBTI persons.

Article 20.05 repeats information on the law, but is incorrect and outdated (last updated in 2007).

The report does not include any information on prosecution rates. According to an article by PinkGays ‘the only documented case to my knowledge was one I reported on 25.12.2010 when two men were arrested for “indecent acts,” with minimal information and despite many efforts no further information regarding this case was obtained (see suggested sources below).

COIS: The source in 20.05 refers to information contained in the penal code of 1953, referenced in paragraph 20.02 as the current law in regard to LGBT persons, so would appear still accurate. However, the source does simply repeat more recent material so does not add anything to the report.

Treatment by, and attitudes of, state authorities

The report provides information on the Qaddafi attitudes and that of the new Libyan leadership. It would be good to regroup information concerning the Qaddafi government, and cite information on the new government first.

Information on raids by the Nawasi Brigade, abuse while in detention and State repression of LGBTI organisations is included in the section on *Societal treatment and attitudes*, and should be reported or at least cross-referenced in the section on *Treatment by, and attitudes of, state authorities*.

For further issues to include, see template for analysis. In particular, information on government approach to HIV/AIDS could be added, and healthcare. ILGA (see source below) reports on issue that HIV/AIDS carries stigma and linked to gay sex, as well as inadequate health support.

Societal treatment and attitudes

This section is very good. It cites a USSD source suggesting that no public information is available on societal discrimination towards LGBTI persons (para. 20.10), but nuances this source by stating that this should not be used to assert that there is no discrimination. This is very good practice.

This section also includes information on societal violence against gays and lesbians (including rape), negative views against same-sex partners and cross-dressing and the enduring homophobia post

Qaddafi, societal discrimination, use of internet online and obligation to live discreetly. It also includes a source on multiple discrimination (for being gay and black), which is very good practice.

Overall, the section provides a good description of the implications of having an LGBT identity, and implications of being out.

Information of abuse by the Nawasi brigade (paras. 20.12, 20.13) should be reported in the section on *Treatment by, and attitudes of, state authorities*.

Information on the repression of public advocacy of LGBT rights (para. 20.16) reported under *Societal treatment and attitudes* could be included in the section on *Treatment by, and attitudes of, state authorities*.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Other sections of the COI report do not specifically address LGBTI issues. In particular, specific information could have been included in section 16 (freedom of speech and media), 22 (women), and 25 (medical issues).

(iii) Suggested sources

- Libyan Militia Plans To Execute 12 Gay Men, By Zack Ford on 26 November 2012, Think Progress, <http://thinkprogress.org/lgbt/2012/11/26/1235861/libyan-militia-plans-to-execute-12-gay-men/>
- Interview: Gays and the Libyan revolution, before and after, February 2012, Dan Littauer, Pink News, <http://www.pinknews.co.uk/2012/02/08/interview-gays-and-the-libyan-revolution-before-and-after-part-one/>
- Gays Have No Rights In The “New Libya”, Alexandra Valiente, 13 February 2012, Viva Libya <http://vivalibya.wordpress.com/2012/02/13/gays-have-no-rights-in-the-new-libya/>
- Libya assembly votes for Sharia law, December 2013, Aljazeera, <http://www.aljazeera.com/news/africa/2013/12/libya-assembly-votes-sharia-law-2013124153217603439.html>
- Gay Libya News and Reports, Global Gayz, <http://archive.globalgayz.com/africa/libya/gay-libya-news-and-reports-2/>
- Libya’s growing drugs/HIV problem, ILGA, 24 June 2013, <http://ilga.org/ilga/en/article/o9FS2ke1NL>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Libya and will take account the comments and sources above in future products addressing LGBTI persons.

11. Nigeria

COI Report, 14 June 2013

(i) Review of LGBTI section of COI Report

Overall Assessment

Overall, this is a good report which cites a variety of up-to-date sources.

However, the LGBTI section needs to be restructured. A lot of information from the *societal treatment* section on prosecution of cases should be included under *legal rights*. The report includes specific

headings on extortion and religion which provides relevant information interesting. However, these should be included as sub-headings to the *societal treatment* section.

Very little information is included on transgender or intersex persons. While the *legal rights* section explicitly states that no data was found, no similar statement is made for the other sections and very little information is provided on the transgender/intersex perspective.

To what extent were comments from 2008 review addressed?

The comments of the 2008 review mainly related to including more information and detail. This has been partly addressed, although more information could be included on transgender and intersex persons (or at least a statement saying that no information was available). The sections on *state* and *societal treatment* have improved and allow for a better understanding of the implications of living with an LGBT identity.

Understanding of LGBT issues; content and language

The language is appropriate and shows a reasonable understanding of LGBTI issues.

Quality and balance of sources; LGBT perspective

A variety of sources are cited, including ILGA and local sources. Very little information is included on transgender or intersex persons.

Review of each section:

Legal information

Good description of law applicable to same-sex partnerships under the Criminal Code, as well as a proposal for a bill which would ban same-sex marriage and public displays of affection between same-sex couples. The information includes a detailed debate surrounding the bill, as well as the status of the bill in Parliament, which is a good practice. The report contains subheadings for gay and bisexual men, lesbian and bisexual women, transgender and intersex persons, which is a good practice.

The report specifies which States have adopted Sharia law and includes a cross-reference to a section of the COI report on Sharia law. It would be good to provide information on the application of Sharia law under a discreet subheading, or at least regroup the information. The British-Danish 2008 source cited at 21.09 (NB: the link for this source provided in the footnote does not work) states that ‘Nigerian law does not clearly define sodomy and the law on sodomy covers other types of non conformist sexual behaviour or acts, which are all regarded as sodomy, etc.’ This is a reference to Sharia law applied in many Northern States. However, this could be explicitly stated and the information should be regrouped with other information on Sharia law. While the researcher does not have to cite the applicable law for each State, an up to date link to a harmonised Sharia Penal Code could be provided. See for e.g. http://www.sharia-in-africa.net/media/publications/sharia-implementation-in-northern-nigeria/vol_4_4_chapter_4_part_III.pdf

The legal situation for lesbian and bisexual women is also presented, including religious laws.

The report also cites a less recent (2011) IGLHRC report at para. 21.08 summarising the law. It merely repeats information cited from the 2012 ILGA report.

As for transgender and intersex persons, the report cites an old Amnesty International report (2006) reporting that no data or clear legal situation was available. It also specifies that at the time of publication of the COI Report, no further sources were found, which is good practice.

No information on prosecuted cases/charges reported. Reporting on the prohibition of same-sex marriage bill, para. 21.04 cites a Globalpost source stating: ‘the current law is rarely prosecuted successfully because it requires witnesses to prove guilt’. This information should be moved to a more

relevant subsection, such as the previous general description of legal rights (after para. 21.01), and could be expanded on (i.e. were there any prosecutions?; information on burden of proof).

Treatment by, and attitudes of, state authorities

Good information from a variety of sources, reflecting attitudes of the State towards same-sex couples.

A variety of recent sources are cited Globalpost, US State Department. Concrete cases are mentioned,

Information on prosecutions of same-sex relations (para. 21.14) would better fit in the section of legal rights under same-sex relations. The same goes for the trial of 18 men for the charge of sodomy reported in para 21.13. This should be included in the section on *legal rights*, or at least cross-referenced.

Para. 21.14 fourth paragraph cites Erasing 76 Crimes Blog website entry from September 2012 asserting that a bill against same-sex marriage ‘is described as law that is in effect’ and then later says ‘that has not happened, unless occurred without being reported publicly’. First, this information should follow the debate on the legislative bill provided in the legal rights section. Second, it brings confusion to the report. Under the legal rights section, multiple relatively reliable (and more recent) sources describe the status of the bill and that it has not yet passed.

Para. 21.15 first paragraph relating to the prosecution of Nigerian pastors would fit better on the section of *legal rights*, or at least a cross/reference could be made.

The researcher needs to be careful to include only information relevant to LGBTI persons. They cite the British Danish report highlighting growing conservatism extending ‘beyond people of different sexual orientation’. They do not need to cite the following statement ‘recently, even women wearing trousers and body-hugging tops have been arrested, etc.’. The reports should focus on information specific to LGBT persons.

In the section on societal treatment, a reference is made to the rape of lesbian women incidents which were not charged. This should be included, or a cross-reference to this information made, in the section on *Treatment by, and attitudes of, state authorities*.

Societal treatment and attitudes

Varied sources provided, including local sources which give a good idea of invisibility and discretion (denial) practiced by same sex persons, including lesbian women, as well as health support, and NGOs.

An article cited from 234Next (‘Gay Pride march: is Lagos ready’) (para. 21.32) includes a narrative where the author reports ‘having observed in the weeks prior to writing the article a lesbian and a gay couple who had made out in public space – a beach and a bar respectively’. This is anecdotal evidence and not reliable information on expression of gay and lesbian identity.

COIS: The general content of article is consistent with others sources, so we consider the reference has some weight albeit less than other sources.

Several sources in this section rely on information that, to some extent, relies on word of mouth and anecdote reflecting the difficulties in obtaining information on LGBTI persons.

Spartacus International Gay Guide 2009 is cited: ‘Lagos had a *number of gay bars, and mixed dance clubs and fitness studios where gay people could meet, Lagos is probably the most vibrant city of Sub Saharan Africa. Other reports such as voice of America 2012 News article (para. 21.24) state that ‘Nigeria is a dangerous place to be gay. Activists say homosexuals are hunted, threatened and*

ostracised. In the Nigerian Capital, there are no gay, bars, clubs or cruising strips and many locals will tell you there are also no gay people.’

It is important to have a balance of views. However, where such strong contradictions arise, it would be good practice to at least highlight the contradiction.

The sections below should be included as sub-headings to societal treatment and attitudes.

Extortion and blackmail

The report has a separate section on extortion of same-sex persons in Nigeria.

Para. 21.36 refers to a violent attack against 3 gay men, but does not describe any elements of extortion. This paragraph should be included under the general section of societal treatment and attitudes

Christians

A separate section is also included on ‘Christians’. The heading should be modified to be more general, such as ‘religious attitudes’, as the section does not only refer to Christian conservatism, but also to Muslims.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Annex A chronology of major events reports on new bill to outlaw same sex marriage, which is good practice. However, it describes the law as meaning ‘prison sentences for gay people who live together’, which is not entirely accurate as it does not refer to its application to lesbians;

COIS: the bill is accurately covered in the section on LGBTI persons.

- Section 17 on human rights institutions, organisations and activists refers to dangers of working on gender and women’s rights in particular in the north of the country (where Sharia is enforced, and that LGBT defenders face specific security risks;
- Section 6 on general human rights issues refers to discrimination based on sexual orientation and gender identity as one of the particularly serious human rights problems, which is good practice;
- LGBTI issues are not specifically addressed in other relevant sections of the report such as sections 23 (women) and 26 (medical issues).

(iii) Suggested sources

- Breaking Social Silences in Nigeria: A Conversation With Gay Rights Activist Michael Ighodaro, September 2013, Huffpost http://www.huffingtonpost.com/daniel-lyons/michael-ighodaro_b_3908443.html
- Person in Nigeria has been outed as Intersex subjected to public humiliation as in danger of losing their life at the hands of a “lynch mob”, 5 April 2013. OII Australia, <http://oii.org.au/22107/nigeria-letter/>
- Nigeria Criminal Code: <http://www.nigeria-law.org/Criminal%20Code%20Act-PartIII-IV.htm#Chapter%2021>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Nigeria and will take into account the comments and sources above in future products addressing LGBTI persons.

12. Pakistan

COI Report, 9 August 2013

(i) Review of LGBTI section of COI Report

Overall Assessment

The report is comprehensive, transgender issues are described in detail in a separate section. Less information is provided on lesbian, bisexual and intersex issues but the COI reports a paucity of data in this area.

More information could be included on abilities to express LGBTI identities, as well as on attitudes and treatments in the medical sector.

To what extent were comments from 2008 review addressed?

Issues raised in the 2008 have not all been addressed, including removing the reference to Pashtun men taking young boys for lovers, more information on medical sector for LGB persons, treatment in the military and prisons, and issues relating to HIV/AIDS.

Understanding of LGBT issues; content and language

The report includes inappropriate terminology in several instances:

- Para. 21.16: reference to homosexual acts being illegal.
- Para. 21.19 ‘published a report on homosexuality’
- Para. 21.07: ‘the IRB stated in a response regarding the treatment of sexual minorities...’. While this terminology is used in the IRB report title, the report is not citing the title and therefore when paraphrasing the term LGBTI should be used instead of ‘sexual minorities’. Same comment for reference the IRB research in 21.15 as ‘the IRB Research Directorate’s response on sexual minorities...’.
- Para. 21.22 refers to ‘female couples’. As the source refers to lesbians, it would be better to use the specific term ‘lesbian’.

Moreover, some inappropriate content is included:

A quote from the IRB Research Directorate, dated 29 November 2007, para. 21.20 states that: *In the country's North West Frontier Province (NWFP), it is apparently well known that ethnic Pashtun men take young boys as lovers which, according to IRIN, is —a practice now deeply embedded in the local culture.* This issue was raised in the 2008 COI evaluation but not addressed in the 2013 COI Report. It is not appropriate content in that it does not relate to consensual adult same-sex relations and is unlikely to have any significance to an asylum/human rights application in the UK.

References to ‘homosexual behaviour’ (i.e. displays of affection) not being distinguished from other accepted social behaviours are also made and should be avoided (see comments below in *Societal treatment*)

Quality and balance of sources; LGBT perspectives

There is a range of sources used, including sources from the FCO. Some sources used are outdated however, particularly in the section on *State treatment* (including the IRB 2007 source, BBC 2005 source). More LGBTI specific sources could be used.

Very little information is provided on State and societal attitudes towards lesbian or bisexual women. However, the report states at para. 20.01 that information on the legal rights and treatment of lesbians, bisexual men and women and intersex persons was limited, or could not be found by COI Service amongst the sources accessed in this section, which is good practice.

The report contains a separate extensive section on transgender persons, which is good practice.

Review of each section:

Legal information

The legal framework on same-sex relations is well presented on the Penal Code and Islamic law which was reintroduced in 1990, including legal provisions, and punishments under each law. It also explains how the law would apply to gay men and to lesbians, which is a good practice.

The Immigration and Refugee Board of Canada (IRB) report cited in para. 21.05 dates from 2007 and refers to two cases prosecuted from 2005 and 2007. It would be good to include more recent sources reporting on more recent cases, such as the more recent IRB source cited in para. 21.09.

In para. 21.09: reference to prosecution rates from 2011: *the organization is aware of 10 cases in the Punjab city of Multan that fell under Article 377 on —unnatural offenses—. In follow-up correspondence, the Neengar society representative noted that all 10 cases were prosecuted, with 2 resulting in a 10-year prison sentence... As of 6 November 2011, the rest of the cases were still in the high court of Multan with hearings taking place...* [12t] NB: this information is under the section ‘treatment by, and attitudes of state authorities’. It should be placed in the section on *legal rights* to report on how the laws are enforced.

The reference to lack of legislation protecting LGBTI persons such as non-discrimination on the basis of sexual orientation or gender identity in the section on *Treatment by, and attitude of State authorities* (para. 21.07) should be reported in the section on *legal rights*.

Treatment by, and attitudes of, state authorities

The report includes information on discrimination (including that little data is available as underreporting due to societal stigma). It also provides information on non-acceptance of LGBTI issues by the State, State views against UN discussions on treatment of LGBTI persons reflecting Pakistan’s stance on LGBTI issues, police treatment and lack of protection.

Reference in para. 21.07 to the issue that rights to education, health, work are openly infringed could be included or cross-referenced in the section on *societal treatment and attitudes*.

For other issues to include, see template for analysis, including reference to military service/ issues faced in detention.

Societal treatment and attitudes

The report provides information relating societal discrimination and lack of acceptance of LGBT persons, ability to express an LGBT identity, context to gender norms, nuances on attitudes according to class (good practice) and variance of harassment according to LGBT sub-group, use of online media as a space to express gay identity, treatment of LGBT activists, treatment by religious authorities.

Information on the different legal Schools of Islam (Para. 21.19) should be included in the section on *legal rights* following the source referring to Islamic law (Para. 21.04)

In para. 21.20, the following is cited: *In the country's North West Frontier Province (NWFP), it is apparently well known that ethnic Pashtun men take young boys as lovers which, according to IRIN, is —a practice now deeply embedded in the local culture.* This is not appropriate content in that it does not relate to consensual adult same-sex relations.

Several sources cited are out of date. The BBC 2005 cited at 21.21 includes some useful information on gays marrying women to avoid scandal. A more up-to-date source on these issues would be useful.

The IGLHRC source cited on lesbians at 21.22 dates from 2008. While this is the latest shadow report from IGLHRC to date, other more up-to-date sources on societal treatment of lesbians could be included (see suggested source below).

The IRB 2007 research (a more recent source from the IRB is the 2011 report which is cited in other parts of section 21 of the COI report) provides interesting information at para. 21.121 on differences in attitudes from a rural/urban perspective. It would be good to provide a more up-to-date source on these issues.

The same IRB 2007 source cited in 21.21 refers to ‘cultural practices in Pakistan, which permit public displays of affection between members of the same gender, make it possible for gay men to socialize without attracting attention’. Similarly, para. 21.17 states ‘it is almost harder to conduct a secret heterosexual romance than a homosexual one. Displays of affection between men in public, like hugging and holding hands, are common. A guy can be with a guy anytime, anywhere and no one will raise an eyebrow.’ This suggests that gay behaviour cannot be distinguished from other accepted social behaviours, and assumes that there is no distinction between a sexual embrace, kiss or touch, and a non-sexual one, and/or that others in society are not able to de-code this. More pertinent information on same-sex partners living as couples is provided at para. 21.16.

For other issues to include, see template for analysis, including portrayal of LGBTI persons in the media, medical issues, access to social and economic rights such as education, healthcare, social security benefits and employment, links to sex work and cross-reference to section on medical issues for attitudes towards HIV/AIDs.

(ii) Sensitivity to LGBTI issues in other sections of the report

- In Annex I to the report, Correspondence from Foreign and Commonwealth Office from 2008 provides extensive information on transgender persons, including legal information on sex/change, arrests and prosecution against transgender (including under sharia law), with good nuances of urban/rural areas, (lack of) availability of sexual reassignment, status post-operation, societal treatment, (lack of) protection from authorities, clarifications on hijra. A hyperlink to this correspondence and main findings is presented in section 21 on LGBTI issues, under the transgender heading, which is good practice.
- Section 26 (medical issues), under the subheading HIV/AIDS treatment, refers to perceived links between ‘homosexuality’ and HIV/AIDs resulting in social stigma. The rest of section does not address specific issues relevant to LGBTI persons.
- Section 7 on general human rights issues reports on discrimination based on sexual orientation and gender identity as part of the serious human rights problems, which is good practice.
- LGBTI issues are not specifically addressed in other relevant sections of the report, including section 23 (women), section 10 (military).

(iii) Suggested sources

- Human Rights and Transgender People in Pakistan, published February 2008 (IGLHRC Report 2008), <http://www.iglhrc.org/content/pakistan-human-rights-and-transgender-people-pakistan-submission-un-universal-periodic>
- Homosexuality in Pakistan, International Humanist and Ethical Union, 4 February 2008, <http://www.iheu.org/node/2922> .
- Pakistan allows trans men and women their own gender category, 27 April 2011, Pink News <http://www.pinknews.co.uk/2011/04/27/pakistan-allows-trans-men-and-women-their-own-gender-category/>
- Report on digital media and internet freedom (covering May 2012 - April 2013), http://www.ecoi.net/file_upload/3714_1380804575_fotn-2013-pakistan.pdf
- Pakistani Gays Stifled in Closet Living, By Zofeen Ebrahim, September 2013, Interpress Service News Agency <http://www.ipsnews.net/2013/09/pakistani-gays-stifled-in-closet-living/>

- ILGA State Sponsored Homophobia, A world survey of laws: Criminalisation, protection and recognition of same-sex love Lucas Paoli Itaborahy & Jingshu Zhu, May 2013, http://www.ecoi.net/file_upload/90_1369137119_ilga-state-sponsored-homophobia-2013.pdf
- Pakistan's Lesbians Live In Silence, Love In Secret, by Habiba Nosheen, January 17, 2011 <http://www.npr.org/2011/01/17/132711102/pakistans-lesbians-live-in-silence-love-in-secret>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Pakistan and will take into account the comments and sources above in future products addressing LGBTI persons.

13. Somalia

COI Report, 5 August 2013

(i) Review of LGBTI section of COI Report

Overall Assessment

The report is very brief, and much more information is needed to make the report suitable for its use in asylum claim/human rights protection decisions (see template for analysis for issues to address). If information is not found, this should be mentioned to demonstrate that relevant issues have been considered.

To what extent were comments from 2008 review addressed?

Many of the issues raised are not addressed in the 2013 report, although this is mainly due to the scarcity of information. The report recommended including a source from the Danish Immigration Service (human rights and security in central and southern Somalia, August 2007, <http://www.refworld.org/docid/46e109d92.html>), which contains a section on LGB. The update on security and human rights issues in South-Central Somalia, including in Mogadishu carried out by the Danish Immigration Service does not refer to any LGBTI issues. While the 2007 source is out of date, in the absence of any other sources, relevant parts of the report could be cited with a justification of why it is used.

Understanding of LGBT issues; content and language

The report demonstrates a reasonable understanding of LGBT issues, although much more detail is required.

Quality and balance of sources; LGBT perspectives

The sources used are up-to-date, the report cites recent findings from ILGA and the US State Department, as well as a local source from NGO in neighbouring country (Kenya). The source from Identity Kenya is, from its own admission, not verified information and anecdotal.

No specific information is included on lesbians, transgender and intersex persons. At least a cross-reference to the women's section should be made.

LGBT issues are taboo in Somalia and there are no NGOs with an LGBTI focus. Information on LGBTI persons is scarce, and the report expressly states this. It would be useful to consult the FCO for additional information, including to confirm recent events of stoning in March 2013.

Review of each section:

Legal information

The report cites an ILGA report referring to parts of the Somali Criminal Code (relating to criminalisation of same-sex relations). This includes a reference to the punishment and security

measures set out in the penal code for crimes (NB the report does not concretely specify what the additional security measures are, which would be useful). There is no reference to rates of prosecution although information on this would be difficult to obtain.

Under the section on *societal treatment and attitudes*, the report also specifies that anti-discrimination provisions do not apply to LGBT individuals. While this was reported within a full paragraph from a recent US State Department Report, it would be better for this reference to (lack of) discrimination laws to be cited under the heading *legal rights*.

No reference to other legal rights such as right to change legal gender for transgender persons, as well as personal status issues (such as marriage, divorce) (or cross-reference to the judiciary or women section). For issues to include, see template for analysis.

Treatment by, and attitudes of, state authorities

The report combines the sections on State/societal treatment and attitudes under a heading *societal treatment and attitudes*. Some of the information relates to State treatment, therefore the heading should at least refer to *state and societal* treatment.

This section cites a US State Department Report covering events of 2012 reporting a lack of public discussion or acknowledgment of LGBT issues, as well as no reports of societal violence or discrimination towards this group. Another source cited (identity Kenya website) reports a horrific stoning of a young man as punishment for being gay (March 2013). The event is presented as unverified information from Identity Kenya. No other information is presented.

A cross reference is made to the section on freedom of religion and non state armed groups for information on the application of Sharia law. This should be made in the *legal rights* section.

The researcher could consult a recent al Jazeera source Gay, lesbian and HIV-infected refugees fear violent persecution should they return home, July 2013 (see suggested source below), which provides a bit more insight on State and societal treatment in the context of fear of return.

While the report stresses the invisibility of LGBT issues, it does not specifically refer to any difficulties in accessing rights, such as education, health-care, social security benefits and employment. Researchers should at least show that they have considered this, and report that there is no available information on this if this is the case.

Societal treatment and attitudes

As above.

The report is quite clear on LGBT issues being a taboo topic with no public discussion. However, especially as there is so little information on LGBT issues, more contextual information is needed on the general regulation of gender and sexuality, such as the legal, economic, social status of unmarried men and women.

(ii) Sensitivity to LGBTI issues in other sections of the report

- The other sections of the COI report do not specifically address LGBTI issues.

(iii) Suggested sources

- Gay, lesbian and HIV-infected refugees fear violent persecution should they return home, Noor Ali, July 2013, <http://www.aljazeera.com/indepth/features/2013/06/2013630131245411453.html>
- Soul mates: The price of being gay in Somalia, afrol news, undated <http://www.afrol.com/features/10599> , accessed November 2013

COIS: Thank you for the comments and sources. The section is short because, as far as we are aware, claims based on gender identity or sexual orientation are rare and information has not been required by decision makers. Additionally, as noted by the reviewer, there is limited information about LGBTI persons in Somalia.

We are in the process of developing a new information/guidance product on Somalia which covers the issues most frequently arising in asylum claims. This document replaces the existing report/operational guidance note but does not include information on LGBTI persons given the infrequency of claims on this basis.

14. Sri Lanka

COI Report 7 March 2012

(i) Review of LGBTI section of COI Report

Overall Assessment

On the whole, this is a good report, and provides perspectives of the different sub groups of LGBT persons (no mention is made of intersex persons however).

The legal section could be slightly restructured for a better flow, and include information on personal laws. The sections on *Treatment by, and attitudes of, state authorities* and *Societal treatment and attitudes* are comprehensive and address a range of issues relevant to understanding the implications of having a LGBT identity. Slightly more information on the transgender group would be useful (see below), as well as information on intersex (or at least acknowledgement of lack of data). The report includes cross/references to women and medical sections, as well as links to local NGOs, which is a good practice.

To what extent were comments from 2008 review addressed?

The report has improved, including a more extensive section on *legal rights* (although the recommendation to start the section by citing the legal provisions first was not followed); more information on police treatment is provided, and more details are included under the section on *Societal treatment and attitudes*, including on LGBT organisations and medical issues. While a reference to religion is made in para. 19.13 ('in a largely Buddhist country homosexuality is seen as a sin') a bit more information could be included on approach of majority religion, as was suggested in 2008 review.

Understanding of LGBT issues; content and language

The report demonstrates a good understanding of LGBT issues, including issues linked to having a gender identity such as access to health and employment. The language and content used in the report are appropriate.

Quality and balance of sources; LGBT perspectives

The report cites relevant international and local sources, most of them with an LGBT perspective. The sources are on the whole up-to-date.

Review of each section:

Legal information

The report provides information on the Penal Code and how it applies to lesbians, bisexual and transgender men and women, which is good practice. It also includes information on the (lack of prosecution), and the negative impact of the laws in terms of perpetuating stigmatisation of LGBTI

community, including blackmail, which gives a good idea on ability for LGBT community to live openly. A cross-reference is also made to the women's section which is good practice.

The report cites several sources on the Sri Lankan Penal Code. It would be better to cite the ILGA Report (cited at para. 19.04) quoting parts of the Penal Code first. It would also be good to include a link to the Penal Code as it is available online (see sources below).

Moreover, it would make this section clearer to regroup information pertaining to separate topics. For example, para. 19.02 (reporting on criminal law, enforcement of the Penal Code, lack of anti-discrimination safeguards, recognition of gender reassignment in government documents all together) is placed in between para. 19.01 (reporting on Penal Code) and 19.03 (reporting on visibility of gays in society despite criminal law framework). The relevant extracts are intermitted by other information, this section could be better structured. The report should comment on each relevant point separately, i.e.: Penal Code (including its scope of application to lesbians and transgender persons); prosecutions; other effects of the law; laws/policies relevant to transgender persons, etc.).

Para. 19.02 relating to visibility of gays in 'culture, politics and cafes' would fit better in the section on Societal Attitudes and Treatment.

No information is provided on intersex persons, nor confirmation that no information is available on this group. For other issues to include, see template for analysis. In particular, information on discrimination in family and personal laws, e.g. marriage, parenting, custody or cross-reference to section 20 on women's rights).

Treatment by, and attitudes of, state authorities

The section includes information on police harassment and extortion of gays, views of the Prime Minister and relations (or lack of) with LGBT organisations, inequalities linked to discrimination in family and personal laws, negative media coverage and harassment by the State against gay activists.

For additional information to include, see the template for analysis. In particular, information on restrictions of LGBT persons serving in military or governmental support (or lack of) in healthcare. The report refers to two transgender persons having undergone gender reassignment surgery. It would be useful to include information on healthcare for this group (if available).

Societal treatment and attitudes

This section is balanced and relatively complete, addressing many issues of societal treatment and attitudes towards the LGBT community from different perspectives, and providing good insight on the implications of having an LGBT identity in Sri Lanka.

The section provides useful information on societal pressure against LGBTI organisations, family pressure, LGBTI groups, stigmatisation linked to the Penal Code, discrimination, blackmail and impact on career and employment, people hiding their identity, link to LGBT NGOs, access to health care (including cross-reference to medical issues), and absence of data on violence against LBT women due to invisibility of LBT community (including cross-reference to women).

For other issues to include, see template for analysis. In particular, additional information could be provided on discrimination and harassment faced by transgender persons in particular, including links to sex work. See for example information on a transgender who sought asylum from Sri Lanka in Hong Kong in suggested sources below.

No information is provided on intersex persons (or confirmation of lack of information).

(ii) Sensitivity to LGBTI issues in other sections of the report

- A cross-reference is made in section 20 (Women), subheading rape/domestic violence, to section 19 (LGBT).
- Section 7 on general human rights issues refers to discrimination and violence against persons based on their sexual orientation were problems in the description of serious human rights problems.
- Other sections of the COI report do not specifically address LGBTI issues. A cross-reference to section 19 (LGBT) could at least be made in section 23 (medical issues) to add an LGBT perspective to the medical section.

(iii) Additional sources

- ILGA State Sponsored Homophobia, A world survey of laws: Criminalisation, protection and recognition of same-sex love Lucas Paoli Itaborahy & Jingshu Zhu, May 2013, http://www.ecoi.net/file_upload/90_1369137119_ilga-state-sponsored-homophobia-2013.pdf
- Sexual Reassignment Support System Sri Lanka, April 2011, <http://ilga.org/ilga/en/article/mVIZe6b1iX>
- Transgender asylum seeker says she turned to prostitution to survive, South China Morning Post, December 2013, <http://www.scmp.com/news/hong-kong/article/1358103/transgender-asylum-seeker-says-she-turned-prostitution-survive>
- Erasure of the Gays, March 2011, ILGA, <http://ilga.org/ilga/en/article/mT9aaKi18I>
- Web censorship in Sri Lanka: Documenting a growing trend, 8 November 2011, <http://ilga.org/ilga/en/article/ngr79Pu17g>
- Refworld link to Sri Lankan consolidated Penal Code, <http://www.refworld.org/docid/4c03e2af2.html>, accessed November 2013.

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Sri Lanka. We will take into account the comments and sources above in future products addressing LGBTI persons.

15. Sudan

COI Report, 11 September 2012

(i) Review of LGBTI section COI Report

Overall Assessment

On the whole the report provides good information on LGBT rights in Sudan, and raises the issue of scarcity of information with regard to transgender and intersex persons.

A cross-reference to other sections of the report is made at the beginning of section 22 on LGBT rights. A cross-section to sections on religion would also be useful to give context on conservative views of LGBT issues.

To what extent were comments from 2008 review addressed?

The report has improved, with cross-references to some relevant sections (incl. women) to give contextual information, information on prosecutions, more information on police treatment, confirmation that little information was available on transgender community.

Not all the information was considered, such as information on attitudes in the medical sector, links to HIV/AIDS, sex work. It is possible that very little information is available on these issues however.

Understanding of LGBT issues; content and language

Overall the report demonstrates a good understanding of LGBT issues, including a good description of the (lack of) ability to express a gay identity.

The report explicitly states that no specific information on societal and State treatment of trans or intersex people was identified, which is good practice.

Quality and balance of sources; LGBT perspectives

On the whole the sources used are recent and relevant. Researchers should take care however, when citing sources, to include only information that is relevant.

The report uses a good balance of international, local sources. For the future update of this section of Sudan COI report, the website of Rainbow Sudan could be checked for relevant articles (see suggested sources below).

Some information, especially in the section on *Treatment/Attitudes by authorities*, reporting on information on prosecution/charges should be better structured, and information on the same issue regrouped.

While a cross-reference is made to the women section at the beginning of the report, a bit more specific information could be included on lesbians (if available.)

Review of each section:

Legal information

The legal framework relating to gay rights is well presented, with the relevant articles from the Criminal Act cited in the report.

No information is provided on transgender or intersex rights, nor on protective rights – while it is likely that no information is available with regard to transgender and there are no anti-discrimination laws, this should be explicitly stated in the report.

Prosecution/charges

No information is provided under the legal rights section on prosecution/charges.

Information under the section on *Treatment by and Attitude of State Authorities*, either repeats information from the legal rights section, or contains information on prosecution that should be included in the legal rights section, or at least cross-referred to:

- Para. 22.05 : the USSD 2011 source stating that information on no reports of sodomy laws being applied
- Para. 22.05 : 10th European Country of Origin Information Seminar on lack of information on implementation (additional point: this source is dated from 2006, it is outdated)
- Para. 22.06: Information on the mere existence of the law being linked to blackmail,
- Para. 21.06: reporting on the case of 19 males wearing women's clothing at what was perceived to be a same-sex wedding, being charged with violating Sudan's public morality codes, and being subject to lashings. This should be included in the *legal rights* section under discreet heading of cross-dresser (NB the COI report author uses the word transvestite which is offensive).
- Para. 22.07 on lack of information on convictions of sodomy and under-reporting due to stigma for families.
- Para. 22.08 Reference to the same case described in 21.06 (no mention is made of cross-dressing in this source though). These sources could be regrouped.

The information referred to above should also be re-organised, with information relating to the same issues regrouped.

With regard to the case of the raid of same-sex wedding, the Sudan Tribune adds some additional information on the judicial process which could be included: ‘The men had no defence lawyers to represent them. One lawyer told Reuters on condition of anonymity that legal advocates were afraid to take on such a defence.’ (see suggested sources below <http://www.sudantribune.com/spip.php?article35854>).

Treatment by, and attitudes of, state authorities

This section mainly contains information on prosecution/charges - see above comments on prosecution/charges.

Information provided in para. 22.07 on family honour and under-reporting by families should be included in the section on *Societal treatment and attitudes*

More information could be included on the following:

- Attitudes of Sudanese media (see *ilgrande colibrí* source cited below: ‘Sudanese media speak of homosexuality and transsexuality very rarely and always in a very negative way: "The last time, about a couple of months ago, they talked about the spread of homosexuality in schools and among teenagers." Sexuality in general is considered a topic to talk about not on TV, but in private, "with closed doors." There is no mention of AIDS, even though "Sudan has one of the largest populations of people living with HIV in the Middle East and North Africa." <http://www.ilgrandecolibri.com/2013/01/gay-rights-sudan.html>
- See ILGA report on interview with founder of Freedom Sudan, especially on detention conditions, torture from authorities while in detention following a raid of 11 people in 2009 (see sources below: <http://ilga.org/ilga/en/article/n8o46S41ia> (undated, date of access November 2013)

For further information to include, see the template for analysis. The information available is scarce, but by monitoring websites of organisations cited in the report (see sources below), more information required in the template for analysis may be gleaned. The report explicitly states that no information is available on transgender and intersex persons, which is a good practice.

Societal treatment and attitudes

This section provides a good review of LGBT organisations. However, the first source cited (USSD 2011 Country Report) states ‘there were no known LGBT organisations’. This is in contradiction with the ensuing paragraphs of the COI report referring to Freedom Sudan (established 2006), Bedayaa, and Rainbow Sudan. Websites to these organisations are provided, and they exist. Therefore there is no need to cite a source which, even though it is recent, is verifiably incorrect.

The section also provides useful information on the social and economic/employment consequences of being out, as well as religious pressure. A very good description (from an interview with Rainbow Sudan) of the impossibility of being out, and having to hide sexual orientation, including the use of the internet as a ‘lifeline’ is cited in the report.

A cross-reference to the section on religion would be useful.

On class issues, see also ILGA interview published in 2012 on a Sudanese activist <http://ilga2012.org/i-love-working-in-sudan/> who reports among other issues, on the phenomenon of middle-class, more educated group, supposedly being less tolerant towards LGBT persons.

ILGA interview published in 2012 on a Sudanese activist <http://ilga2012.org/i-love-working-in-sudan/> also describes the sense of community and solidarity within LGBT groups.

Specific to lesbians

A brief source is provided from an interview with a Sudanese lesbian (22.15), and should be included under a discreet sub-heading titled 'lesbians' to better structure the report. A cross-reference to women is made at the beginning of the general section, but could be made here in particular when reporting on lesbians.

See also ILGA interview published in 2012 on a Sudanese activist which includes comments on lesbians in Sudan <http://ilga2012.org/i-love-working-in-sudan/>.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 9 (security forces) includes a cross-reference to section 22 (LGBTI) under the heading 'human rights violations perpetrated by government forces'.
- No other sections of the report specifically address LGBTI issues. It is not referred to as a general human right issue in section 7. In particular, it would be useful to include an LGBTI perspective in section 27 (medical issues).

(iii) Additional sources

- Freedom Sudan: <http://www.freedom Sudan.org/apps/blog/> (see report of nine gay men arrested in police raid 25 February 2013)
- I love Working in Sudan, By Mariam Armisen | December 13, 2012, ILGA <http://ilga2012.org/i-love-working-in-sudan/>
- LGBT rights in Sudan: someone fights for the rainbow, Charles Roffey, Il grande Colibri, 2013, <http://www.ilgrandecolibri.com/2013/01/gay-rights-sudan.html>
- Sudan / Freedom Sudan: "Start the Conversation about Homosexuality", ILGA, <http://ilga.org/ilga/en/article/n8o46S41ia>
- Sudan says gay teen sex to blame for AIDS, GayStar news, 14 November 2012, <http://www.gaystarnews.com/article/sudan-says-gay-teen-sex-blame-aids141112>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Sudan. We will take into account the comments and sources above where they remain relevant and accurate in any future products addressing LGBTI persons.

16. Syria

COI Report, 11 September 2012

(i) Review of LGBTI section of COI Report

Overall Assessment

This report is overall quite good, although the *Legal Rights* section could be more complete, and more information could be included on government support in health care, State treatment of transgender persons and media portrayal of LGBTI persons.

The report contains a separate section on transgender and intersex persons, and reports that no information was found on intersex persons, which is good practice. It would have been better to include the information on transgender persons under the relevant main headings of the report.

Understanding of LGBT issues; content and language

The report demonstrates a reasonable understanding of LGBT issues, and uses appropriate language.

Quality and balance of sources; LGBT perspectives

Sources used are recent and balanced, using local and international sources, and LGBTI specific sources.

Review of each section:

Legal information

The section on legal rights is very short.

While it is reported that the Penal Code prohibiting ‘unnatural sexual intercourse’ was not seriously enforced in Syria, given the information reported in para. 21.07 on charges of ‘encouraging homosexual act’, organising illegal ‘obscene’ parties, for example, the report could include any legal information available on these offences under the section on *Legal Rights*.

It would also be useful to include information on such charges.

For more information to include, see template for analysis. In particular, laws regulating sexual relations between consenting adults, such as sexual relations outside of marriage (adultery) and sex work (or a cross-reference to the section on women.)

In addition, the report should include any information on anti-discrimination laws, as well as application of Sharia law to personal status issues (such as marriage, divorce) (or cross-reference to the judiciary section 11).

Treatment by, and attitudes of, state authorities

The section cites the statement in response to the GA Statement Affirming Human Rights Protections to Include Sexual Orientation and Gender Identity, which gives good context to government attitudes towards LGBTI persons.

It also provides information on police arrests and raids, and repression against LGBTI organisations. A cross-reference is provided to the section of the report on prison conditions, which is good practice.

No information is provided specifically on State treatment of transgender persons or lesbians.

For more information to include, see template for analysis. In particular, information on government support in healthcare and attitudes towards HIV/AIDS would be useful.

Societal treatment and attitudes

The section provides pertinent information on family harassment, family and societal pressure against gay and lesbians, including forced marriage, hate crime, blackmail.

Information is also provided in the context of the Syrian revolution (i.e. in para. 21.15), including the political feelings of LGBTI community towards Assad (in fear of repression from a more conservative Islamist government), and of the Free Syrian Army.

Some of the information from para. 21.14 from an interview with a Syrian man reported by Global Gayz could have been included, or cross-referenced in the section on State treatment (including on police intimidation).

For other issues to include, see template for analysis. In particular, the report could include information on media portrayal of LGBTI persons, access to socio-economic rights and healthcare.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 13 (prison conditions) a reference is made to an isolation procedure of ‘homosexual’ detainees during which time they receive psychological ‘treatment (para. 13.07). A cross-

reference to this information is made in section 21 (LGBTI) at para. 21.08, which is good practice. While the use of the term ‘homosexual’ is from the source and not attributed to the COI researcher, it is not clear whether the reference to ‘homosexual detainees’ refer to lesbians and gays, and it would be good practice to clarify this.

- No other sections of the COI report specifically address LGBTI issues.

(iii) Suggested sources

- Op-ed: Why Syria Matters for LGBT People, Victoria A. Brownworth, 13 September 2013, <http://www.advocate.com/commentary/2013/09/13/op-ed-why-syria-matters-lgbt-people>
- Rasha Faek, Coming Out of the Closet...Online at Least, Syria Today, May 2010, <http://www.syria-today.com/index.php/october-2009/440-focus/3403-coming-out-of-the-closet-online-at-least>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Syria. We will take into account the comments and sources above where they remain relevant and accurate in any future products addressing LGBTI persons.

17. Turkey

COI Report, 9 August 2010

NB: Turkey has been out of the top 20 intake countries for several years, only returning in 2013, and the report has not been updated since 2010. The review of the report focuses mostly on on the structure.

(i) Review of COI Report, 9 August 2010

Overall Assessment

This is an overall good report, which considers transgender persons and lesbians specifically. Some of the information could be restructured – for example the report merges State and societal treatment under one heading. The issues could be separated, or at least reorganised for a logical flow. The report contains a separate section on transgender starting at 20.19. This could be mainstreamed in the rest of the report under the main headings, especially as the violence reported seems to be part of a broader pattern of violence against LGBT persons in Turkey. Similarly, information on LGBT organisations could be mainstreamed under the main headings to avoid repetition.

Understanding of LGBT issues; content and language

The report demonstrates a reasonable understanding of LGBT issues, and considers transgender and lesbian issues specifically, which is a good practice. More information on discrimination in the workplace against LGBTI persons, as well as in education (leading to pressure to leave schools) could be included in the updated report. The 2013 EU Commission progress report for 2013 on Turkey (see sources below) provides some information on this.

Review of each section:

Legal information

The legal information is well presented, including law applicable to transgender persons, and other discriminatory provisions in the law. The legal rights section is placed in the context of EU accession negotiations, which is good practice.

Information on restriction to association and the case against Lambda Istanbul could be regrouped (i.e. para. 20.02; 20.03; 20.14; 20.15.

Information on the 2005 suggested revisions to the Penal Code to include anti-discrimination provisions reported in the section on *State and societal treatment* (para.20.07) should be included in the section on *legal rights*. An update to this should be provided in the update of this COI report. Moreover, information on cases of discrimination in the workplace could be included. See the 2013 EU Commission progress report for 2013 on Turkey (see sources below).

Information on laws protecting women such as the Law on the protection of the Family (para.20.13) should be cited in the section on legal rights.

State and societal attitudes and treatment

On the whole the section on State and societal treatment provides good information on police mistreatment, underreporting, treatment of gays in the military, societal pressure, societal violence, and cites a source on family pressure against lesbians.

As mentioned above, this information could be placed under two separate headings: *treatment by and attitudes of the State*, and *Societal treatment and attitudes*. Relevant information from the separate section on LGBT organisations and transgender persons could be mainstreamed under these two main headings.

Issues of domestic violence, occasional honour killings and the issue of early and forced marriages remain a serious concern in Turkey. A cross/reference is made to the section on women, honour killings, assistance to women, which are very good practice.

(ii) Sensitivity to LGBTI issues in other sections of the report

- A mention to discrimination faced against LGBT persons in law and practice is made as part of the wider description on human rights in section 7, which is a good practice (see 7.02).
- No specific mention of health issues for LGBTI persons made in section 25.
- Cross reference to the section on women is made in the LGBT section, in particular to the section on forced marriage and honour killings. This provides useful context, although section 22 on women does not address specific issues on LGBTI persons.

(iii) Suggested sources

- Turkey 2013 Progress Report, Conclusions on Turkey (extract from the Communication from the Commission to the European Parliament and the Council ‘Enlargement Strategy and Main Challenges 2013-2014’, COM(2013)700 final) http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/turkey_2013.pdf
- The Security Challenges Facing Lesbian, Gay, Bisexual and Transgender Asylum Seekers and Refugees in Turkey, updated June 2011, ORAM, <http://oraminternational.org/images/stories/PDFs/oram-unsafe-haven-2011-web.pdf>
- From homophobia to a moving apology in Turkey, January 2012, Elif Shafak, The Guardian <http://www.theguardian.com/commentisfree/2012/jan/18/homophobia-turkey-moving-apology>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Turkey. We will take into account the comments and sources above where they remain relevant and accurate in any future products addressing LGBTI persons.

18. Uganda

COI Report, 20 April 2011

(i) Review of LGBTI section COI Report, 20 April 2011

Overall Assessment

The report is average, and could include more information. The report contains many links to information, without presenting key quotes/findings. The preface to the report states that in some sections where the topics covered arise infrequently in asylum/human rights claims, only web links are provided. However, LGBTI claims from Uganda are not infrequent, and I would recommend outlining the findings directly in the report in this case.

In particular, more information could be included on other charges (*legal rights*), police harassment, treatment of transgender, health care (*State treatment*), treatment from religious leaders, healthcare and violence towards lesbians, and more information on societal treatment of transgender persons (*Societal treatment and attitudes*) – see analysis and suggestions below.

The report could benefit from some restructuring, especially the *legal rights* section (see suggestions below).

Understanding of LGBT issues; content and language

The report demonstrates a reasonable understanding of LGBT issues. It also includes a discreet subheading for transgender persons in the *legal rights* section. Many more perspectives on lesbians, transgender, and even intersex could be included especially in the *societal treatment* section (see suggestions below). The language used is generally appropriate.

Quality and balance of sources; LGBT perspectives

The report uses a good balance of sources from ILGA, UHR, Global Forum MSM, Freedom and Roam Uganda (local). Some sources are out of date however, especially in the *legal rights* section (see analysis of section below).

Review of each section:

Legal information

Good coverage of the criminal law concerning same-sex relations for men and women, including punishment. The report cites an ILGA source providing the full text of the relevant provision of the Penal Code Act, which is a good practice.

As a general comment, information on these provisions of the Penal Code should be regrouped, for enhanced readability and to avoid repetition.

Para. 19.07 cites a source from Amnesty International from 2006. It would be better to limit the sources to two years prior to reporting, unless there is a good reason to cite older sources (for e.g. in cases where information is scarce or to provide cultural context where no more recent information is available). This source also refers to the same-sex marriage being criminalised. The prohibition of same-sex marriage was set out in 2005 in Section 31(2a) of the Constitution. It would be better to cite the relevant provision of the Constitution, which is available online http://www.wipo.int/wipolex/en/text.jsp?file_id=170004. The same AI source also states that 'homosexuality was illegal for men; however women were not mentioned in the law'. The Criminal law applies to both men and women. **While these errors are not attributed to the COI researcher** as these are cited sources, these latter points are however a reason to not include an outdated source.

The source cited in para. 19.08 is also outdated (2003). Given that there is more up to date information available on societal attitudes towards lesbians (see sources section below), more recent sources should be presented.

The report provides extensive information on the controversial anti-homosexuality bill introduced in 2009, including reactions by Ugandans, International community and government positions. An update on the bill is provided at 19.17, which is good practice.

The information could be better structured for clarity and readability. For example, the description of the bill starts with the cited sources on the reaction to the bill (para. 19.09). It would be better to state first what the bill contains and how it impacts LGBTI persons (this is described in 19.11 and the preamble of the bill is cited in para 19.14 with a link to the bill's memorandum). Para 19.12 cites a source from Amnesty International 2010 report, the first paragraph repeats the information.

A subheading is provided for transgender persons, including a source in para. 19.18 citing lack of data, lack of anti-discrimination laws, which is good practice. A link to articles relating to transgender persons is provided in para. 19.18. The first link 'Who is a transgender' does not work. Findings from the article 'Fugitives in their Own Country' by FARUG could be cited directly in the report in the sections on *State Treatment* and *Societal Treatment*.

The report states that no charges have been brought under the Criminal Code. However, the legal section should also present the laws of pornography and other laws under which LGBTI persons may be charged with.

For recent cases see:

- Charge of producing a play 'against lawful orders': (see Article 'Uganda Court Drops Charges Against Producer Of Gay Play' in sources below)
- Charge of "trafficking obscene publications" against a British man in 2013, (see article on Retired British man Bernard Randall to stand trial for 'nonsensical' Ugandan gay sex picture charges cited in sources below),

The report could also refer to the definition of NGOs under Article 1 of the NGO Act in Uganda, which limits activity areas for LGBTI NGOs. NGOs engaged in advocacy or public policy activities, for example, are vulnerable to governmental supervisory action. Moreover, the operating scope for NGOs remains subject to governmental discretion.⁴

For other legal information to include see the template for analysis. In particular, it would be useful to refer to laws regulating sexual relations between consenting adults, including sexual relations outside of marriage, divorce, restrictions on women (or men) to live on their own, and sex work (or include a cross-reference to the women's section of the COI report), as well as laws on expression and association (also could be achieved by a cross-reference).

It would also be useful to refer to the application of Sharia law to personal status issues (such as marriage, divorce) (or cross-reference to the judiciary section 11).

Other laws to consider:

- The Interception of Communications Law (Passed in 2010, this law grants certain government bodies the prerogative to monitor the activities of private individuals and organizations by putting telephone, email, and postal correspondence under surveillance, which may be used to monitor the activities of LGBTI individuals and activists)
- HIV and AIDS Control Bill of 2009: This proposed law includes mandatory testing for HIV and forced disclosure of an individual's HIV status. This bill contravenes international human rights standards by requiring patient confidentiality, and defies best practices on the prevention and treatment of HIV. This bill would restrict LGBTI persons' access to healthcare and may single them out for mandatory testing.

⁴ <http://www.icnl.org/research/monitor/uganda.html>

Treatment by, and attitudes of, state authorities

The information under this section focuses largely on the debate surrounding the proposed Anti-Discrimination Bill.

Information provided under the *Societal Treatment* section on the Ugandan's High Court's final ruling to grant a permanent injunction against the Rolling Stone tabloid and damages, following the publication by this tabloid of names and details and incitement to violence towards alleged same-sex couples, should be included in the section on *Treatment by, and attitudes of State authorities*.

In para. 19.23, a quote from an Amnesty 2010 Report is followed by a comment from the COI Researcher saying 'this comment is contrary to that made by UHRC at 19.04 and should be considered accordingly'. This is very good practice.

For more information to include, see the template for analysis. In particular, more information on restriction of freedom of association/harassment of LGBTI organisations, as well as HIV/AIDS activists could be included. See for e.g.:

- Raid of LGBT rights workshop. **Source:** Uganda: Police close down gay rights workshop, Amnesty International, Karen Veldkamp, 19 June 2012, <http://www.amnesty.org/en/news/uganda-police-close-down-gay-rights-workshop-2012-06-19>
- **Source:** Harassment: Uganda police arrest fourth AIDS activist, Erasing 76 Crimes, posted in April 2013, <http://76crimes.com/2013/04/18/harassment-uganda-police-arrest-fourth-aids-activist/>
- Human rights advocates in Uganda were held for a week without charges after police accused them of "recruiting homosexuals".
Source: Ugandan activists detained in "pattern of police harassment", Pink News, 2008, <http://www.pinknews.co.uk/2008/09/26/ugandan-activists-detained-in-pattern-of-police-harassment/>
- On description of detention conditions suffered and torture suffered by gay activist in 2008: "He was driven to a building where he was led through a dark hall to an interrogation room, and aggressively questioned about the Ugandan LGBT movement...Mr Mukwaaya was cut around the hands and tortured with a machine that applies extreme pressure to the body, preventing breathing and causing severe pain..."
Source: Ugandan police accused of torturing gay activist, Pink News, 28 July 2008, <http://www.pinknews.co.uk/2008/07/28/ugandan-police-accused-of-torturing-gay-activist/>

The quoted source from All Africa.com at para. 19.20 refers to harassment and arrest of LGBT community. More information on State harassment of LGBTI persons could also be included. See Human Rights First report (see sources below) for information on specific cases, including:

- In June 2010, men claiming to be members of the Criminal Investigation Directorate detained a gay man from a school in Kibuli. The victim of the abduction has not been seen since;
- In April 2010, a gay man was detained and forced into a medical centre for treatment where he was heavily medicated and declared mentally ill. He has since disappeared;
- In February 2010, unidentified security forces personnel arbitrarily detained and interrogated the coordinator of the Civil Society Coalition on Human Rights and Constitutional Law in Kampala. His family received threatening phone calls in the weeks after his release.⁵

Statements by political opposition in the Ugandan observer Odonga Otto, could also be included. See:

- The Ugandan Observer: from February 2010, includes the statement 'But when all is said and done, [I submit that] gays should suffer death not only by hanging but also by stoning at a public marketplace. The alternative for them is to seek medical attention; a mad person cannot claim the right to be mad.'

⁵ <http://www.humanrightsfirst.org/wp-content/uploads/Discrimination-against-LGBTI-Ugandans-FINAL.pdf>

Source: MPs FORUM: I can't believe some people's stand on gays, Odongo Otto, February 2010,

http://www.observer.ug/index.php?option=com_content&task=view&id=7449&Itemid=66.

- Communities Under Siege: LGBTI Rights Abuses in Uganda, (undated, but after January 2011), Human Rights First, <http://www.humanrightsfirst.org/wp-content/uploads/Discrimination-against-LGBTI-Ugandans-FINAL.pdf>

Information on State treatment of transgender persons should also be included. See for e.g. (NB both sources are dated after publication of COI report):

- The IGLHRC 2010 press release (see source below) provides information on abuses faced by transgender women in custody (including sexual abuse), lack of hormonal replacement therapy into public health facilities
- Information on challenges faced by Transgender persons, including difficulties to obtain Passports. See: Transgender Equality Uganda, blog entry 'Ugandan Transsexual Woman Molested, Hospitalised For Looking Abnormal, 25 January 2012, http://transgender-uganda.blogspot.be/2012_01_01_archive.html

Information on health care approach to Intersex persons, including 'using the concealment orientated approach', resorting to surgery without the express consent of intersex individual could also be included (see SIPD in sources below).

Societal treatment and attitudes

This section provides useful information on discrimination at school, healthcare, housing and harassment.

Information from para. 19.28 should be placed in the section on *State treatment*.

Para 19.27 alludes to 'public incitement from high profile persons like religious leaders'. It would be useful to provide further information on this, including the influence of Evangelical missionaries (see ILGA cited below).

Paras. 19.29 to 19.33 report on the ruling against the Rolling Stone tabloid are placed under the heading 'Rolling Stone newspaper'. It would be better to have a more informative heading such as 'homophobia in the media and judicial response'.

Lesbians

A link to a Time article entitled 'being gay, one couple's story' is provided in para. 19.28. However, specific issues could be mentioned in the report itself, such as violence against lesbians (i.e. including from parents), difficulties of being out, transgender harassment in detention, random charges.

The issue of access to health-care and violence against lesbians could also be discussed. See:

- Article on issues with healthcare faced by lesbians Lesbian Dies After Being Deported by UK back to Uganda, 17 March 2013, ILGA, <http://ilga.org/ilga/en/article/o0m0Cat1QT>
- Uganda lesbian in coma after mob ambush <http://ilga.org/ilga/en/article/ogmQLgp19h>

Transgender persons

With regard to transgender persons, further information could be provided on issues of family and societal pressures, bullying at school, access to health care, as well as evictions from landlords, rape endured to prove they are women, for example. (see suggested sources below).

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 7 on overall human rights issues include a reference to human rights violations against LGBT persons and the draft bill (NB: the acronym LGBTI should be used).

- Annex A (Chronology of Major Events) refers to anti-homosexuality Bill, which ‘would prescribe execution for some gay people’ (p. 126). While this is reproduced from the BBC timeline, it is not very accurate; in particular the 2009 ‘Anti-Homosexuality Bill’ applies to lesbians and not just gays.
- In the section on Latest News, Events in Uganda from 3 February to 20 April 2011, several references to the Anti-Homosexuality bill are included.
- The other sections of the COI report do not specifically address LGBTI issues. It would be good to include an LGBTI perspective in particular in section 23 (medical issues); section 20 (women) and 15 (human rights institutions, organisations and activists).

(iii) Suggested sources

- Uganda bans 38 organisations accused of 'promoting homosexuality', David Smith, The Guardian, Wednesday 20 June, <http://www.theguardian.com/world/2012/jun/20/uganda-bans-organisations-promoting-homosexuality>
- Gays in Uganda, Keep them off the stage, Gay rights in Uganda are still no laughing matter, Feb 23rd 2013 <http://www.economist.com/news/middle-east-and-africa/21572229-gay-rights-uganda-are-still-no-laughing-matter-keep-them-stage>
- Uganda Court Drops Charges Against Producer Of Gay Play, By Zack Ford, 2 January 2013, <http://thinkprogress.org/lgbt/2013/01/02/1386271/uganda-court-drops-charges-against-producer-of-gay-play/>
- Gay rights in Uganda: Retired British man Bernard Randall to stand trial for ‘nonsensical’ Ugandan gay sex picture charges, Adam Withnall, Thursday 14 November 2011, The Independent, <http://www.independent.co.uk/news/world/africa/gay-rights-in-uganda-retired-british-man-bernard-randall-to-stand-trial-for-nonsensical-ugandan-gay-sex-picture-charges-8938756.html>
- Communities Under Siege: LGBTI Rights Abuses in Uganda, (undated, but after January 2011), Human Rights First, <http://www.humanrightsfirst.org/wp-content/uploads/Discrimination-against-LGBTI-Ugandans-FINAL.pdf>
- God loves Uganda: America's Christian right targets homosexuals in Africa, ILGA, 14 August 2013, <http://ilga.org/ilga/en/article/oeubnsX1AP>
- Ugandan Constitution: http://www.wipo.int/wipolex/en/text.jsp?file_id=170004

Specific to transgender/intersex:

- LGBTI Africa: A Trans Woman in Uganda, By Cleo Kambugu, July 16, 2013, the Independent, <https://www.independent.org/2013/07/16/lgbti-africa-trans-woman-uganda>
- Trans Support Initiative - Uganda commemorates the International Day Against Homophobia and Transphobia (IDAHOT), 17 May 2012, <http://www.pambazuka.org/en/category/advocacy/82225>
- Transgender Equality Uganda, blog entry ‘Ugandan Transsexual Woman Molested, Hospitalised For Looking Abnormal’, 25 January 2012, http://transgender-uganda.blogspot.be/2012_01_01_archive.html
- Press Release Kampala, 15 May 2012, Human Rights defenders call for action to protect intersex children and people in Uganda, SIPD, <http://sipd.webs.com/newsarticles.htm>
- Ugandan Transwomen Demand an End to Gender Based Violence and Institutional Prejudice Against Them, 1 October 2013, IGLHRC Press release <http://iglhrc.org/content/ugandan-transwomen-demand-end-gender-based-violence-and-institutional-prejudice-against-them>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Uganda. We will take into account the comments and sources above in any future products information/guidance addressing LGBTI persons. Compared to other countries there is a relative wealth of

material on the situation of LGBTI persons in Uganda and in order to provide an accessible product for decision makers it is likely that any future product will need to be selective about sources and/or use links.

19. Vietnam

COI Report, 9 August 2013

- (i) Review of LGBTI section COI Report, 9 August 2013

Overall Assessment

On the whole, the report is good, with different sources covering many of the areas from the template for analysis.

The report contains a separate section on lesbians and transgender persons. It would be better to include this information under subheadings to the relevant sections set out in the template for analysis. Some of the issues reported under each section apply to LGBTI persons as a group, and it is clearer to report on all groups under each main section.

To what extent were comments from 2008 review addressed?

The report has significantly improved compared with the April 2008 report, and much more information is provided, contributing to a better understanding of the implications of having an LGBTI identity.

Sources used are more up to date, the legal section more complete. The 2013 report also includes separate sections on lesbians and transgender persons although more information is needed on the medical sector.

Understanding of LGBT issues; content and language

On the whole, the language used reflects a good understanding of LGBTI issues.

Researchers should take care to include quotes in quotations marks, and if paraphrasing reword to use appropriate language. I.e. in para. 20.06: 'The age of consent for homosexual and heterosexual acts were equal'. The term same-sex relations is more appropriate. For most of the report however, appropriate language is used.

Quality and balance of sources; LGBT perspectives

The report uses a good balance of local/international sources, and includes sources with specific LGBT perspectives.

Review of each section:

Legal information

The legal information is well presented for same-sex couples and transgender persons, including the debate on the legalisation of same-sex marriage, as well as the (lack of) anti-discrimination measures.

Comprehensive information on the law applicable to transgender persons, including name change, is provided.

Subheadings for the different LGBTI subgroups could be included in this section, and the relevant text inserted under each subheading.

Treatment by, and attitudes of, state authorities

As above, subheadings for the different LGBTI subgroups could be included in this section, and the relevant text inserted under each subheading.

This section provides a good description of government attitudes towards same-sex relations through an up to date description of the debate on the gay marriage act provided in the Australia Network News (20-10; 20.11).

Societal treatment and attitudes

This section provides detailed information especially with regard to discrimination/harassment in the workplace, healthcare and education, bullying in schools, family pressures, media portrayals, harassment.

It also includes a cross reference to the section on medical issues (HIV/AIDS), which is a good practice.

Lesbians

The report flags that the information relating to lesbian was limited and includes a reference to the women and children section to give context to women and girls in Vietnamese society; both are good practices.

Transgender persons

The section on transgender focuses on difficulties in getting gender reassignment recognised, and a case where the authorities attempted to revoke the decision recognising the change.

The report cites a study from 2012 carried out by the Institute for Studies of Society, Economy and Environment on transgender persons in Vietnam, but does not include information relevant for this report, such as police harassment, including arrests of transgender stage performers.

Mental health issues, lack of adequate medical attention (including guidance on hormone intake), access to employment, ability to express gender identity (i.e. p. 18 'except those who have had surgery, many MTFs in Hanoi live a double life – they wear male clothing during the day and only dare to wear make-up and female clothing when going out or performing at night.) These issues should be included in the report. See source from Institute for Studies of Society, Economy and Environment (cited below).

Para. 20.30 repeats the legal framework explained in the legal rights section. It would make more sense for issues on each subgroup to be included under each main section, to avoid these types of repetitions and for enhanced readability.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 7 on general human rights issues refers to some societal discrimination based on sexual orientation, gender identity, and HIV/AIDS status. State harassment of transgender persons could also be included in this general description.
- The other sections of the report do not specifically address LGBTI issues.

(iii) Suggested sources

- Phạm Quỳnh Phương Lê Quang Bình - Mai Thanh Tú, *Aspiration to be Myself, Transgender people in Vietnam: realities and legal aspects* Hanoi, 2012, Institute for Studies of Society, Economy and Environment, <http://www.rosalux.de/fileadmin/images/Ausland/Suedostasien/Transgendersonline.pdf>
- Gay union ceremonies legalised in Vietnam, 16 November 2013, <http://ilga.org/ilga/en/article/onIUG5F1Hv>
- Study finds Vietnam's trans people weighed down by bias, 15 November 2013, <http://ilga.org/ilga/en/article/oniY0x81UD>

- Transgender people in Vietnam: P1- True to themselves, Tuoi Tre, 10 October 2013, <http://tuoitrenews.vn/features/13977/transgender-vietnamese-remain-true-to-themselves>

COIS: Thank you for the comments and sources. We are in the process of reviewing our country information/guidance on Vietnam. We will take into account the comments and sources above where they remain relevant and accurate in any future products addressing LGBTI persons.

20. Zimbabwe

(COI Report, 13 July 2012)

(i) Review of LGBTI section

Overall Assessment

This report is excellent: very well structured, and complete.

The introduction to the section on sexual orientation and gender identity describes the methodology adopted for writing the research (including how each group are covered), which is very good practice.

To what extent were comments from 2008 review addressed?

Many of the issues raised in the 2008 review have been addressed, including a greater focus on the situation for women and cross-reference to women section, mostly up-to-date sources, and generally more information on implications of having an LGBT identity.

Understanding of LGBT issues; content and language

The report demonstrates an excellent understanding of LGBTI issues, and covers many aspects of the consequences of having an LGBTI identity, including access to healthcare, education and housing.

Where issues seemingly not relevant to LGBT issues are addressed, such as male on male rape, this is well justified (i.e. in the example given, because same-sex relations are sometimes connected to rape in Zimbabwe). This is also a good practice.

Quality and balance of sources; LGBT perspectives

For the most part, the sources are recent, balanced and contextualised by the author of the COI report. There is a logical flow between sources cited, which is a good practice.

Review of each section:

Legal information

The section contains sources on LGBTI persons as a whole group, and is followed by discreet headings for gay and bisexual men; lesbian and bisexual women; transgender and intersex persons. This is a very good practice, as it allows to easily identify the legal rights of each subgroup in this section, as well as comparability between groups.

Within the sub-headings, the information is well structured with a logical flow, including citations of the law, interpretations and issues surrounding the law and prosecution rates.

The report provides a very good overview of the legal framework punishing/discriminating against and (lack of) laws positively protection LGBTI, including the political background to the draft Constitution with regard to gay and lesbian rights.

Particularly good aspects:

- The report provides a good presentation of socio-economic differences impacting upon lesbian rights, as well as broader context to women rights in Zimbabwe.
- In the transgender sub-heading the report explicitly states that there is no data or clear legal situation, which is a good practice.
- Specific reference to freedom of association for LGBT groups – good practice.
- Good description of extortion of LGBT groups.

Suggestions for improvement:

- The report cites a source suggesting that lesbians can be charged under disorderly conduct (para. 20.11). A cross-reference to information on prosecution/charges provided in the section on State treatment in para. 20.32 ('GALZ is not aware of any active police persecution of lesbians nor of any lesbians being detained...') and para. 20.33 (on cases of lesbians referred to Zimbabwe Lawyers for Human Rights) could have been included in the *legal rights* section.

Treatment by, and attitudes of, state authorities

This section is also well structured, with a reference to research carried out by the First Secretary at the British Embassy in Harare with representatives of Zimbabwean NGOs, human rights lawyers etc.; and a reference/link to notes from the interviews.

Particularly good points:

- Extensive information on State public remarks on same-sex relations, State attitudes towards gay activists; political context and views;
- Good review of law enforcement abuses, including arbitrary harassment, detentions and reporting not taken seriously.
- Discreet sub-heading for lesbian and bisexual women, including detailed information on problems experienced by lesbians in reporting rape, an offence that this group is particularly vulnerable to.

Suggestions for improvement:

- The reference to charges of disorderly conduct in para. 20.30 could be included or at least cross-referenced in *legal rights* section.
- There is no reference to any problems in military service/prisons.

Societal treatment and attitudes

This section is also well structured, with a reference to research carried out by the First Secretary at the British Embassy in Harare with representatives of Zimbabwean NGOs, human rights lawyers etc.; and a reference/link to notes from the interviews.

Particularly good points:

- The report contains discreet subheadings for gay and bisexual men, lesbian and bisexual women;
- Extensive description of consequences of living with a gender identity, including medical care, education, housing;
- Very good discreet sub-heading on lesbian and bisexual women, explaining societal and traditional norms, rape and harassment, contextualised with a description of women's status in society;
- Very good nuances provided on issues of class (how same-sex relations are considered, for example); geographical nuances (more harassment/discrimination faced in Harare, for example), including rural/urban, densely populated/sparsely populated areas. This is very useful when evaluating asylum claims.

Suggestions for improvement:

- In 20.35, an old source from the Journal of Southern African Studies (1998) is cited. While this source was probably included to provide background information, references to 'pederastic marriage' in the context of describing 'sexually intimate relations between males'

reflects how outdated the source is. The rest of the COI section on societal treatment is rich with more up-to-date information, rendering the use of this source questionable.

(ii) Sensitivity to LGBTI issues in other sections of the report

- Section 7 on human rights issues refers generally to discrimination against LGBT persons.
- Annex E – Foreign and Commonwealth Office interviews undertaken by the First Secretary (Migration Deliver Officer), British Embassy, Harare, in August 2011. A link to the Annex is provided in section 20 (LGBTI), which is good practice.
- Section 22 (Women) includes a cross/reference to section 20 (LGBTI), which is good practice.
- Section 22 (Women), at para. 22.48, also includes a specific reference to violence against lesbian, bisexual and transgender women.
- Section 25 (Medical Issues) refers to sex work including among transgender persons, and links this to risks of contracting HIV (para. 25.49).

(iii) Suggested sources

- Galz tribute to trans-gender advocate, New Zimbabwe, 20 November 2013
<http://www.newzimbabwe.com/news-13167-Galz+tribute+to+trans+gender+advocate/news.aspx>

COIS: Thank you for the comments and source.