



Home Office

Country Policy and Information Note **Sri Lanka: Sexual Orientation and** **Gender Identity and Expression**

Version 5.0

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Preface

Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the [Introduction](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into 2 parts: (1) an assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

Assessment

This section analyses the evidence relevant to this note - that is information in the COI section; refugee/human rights laws and policies; and applicable caselaw - by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- a person is reasonably likely to face a real risk of persecution or serious harm
- that the general humanitarian situation is so severe that there are substantial grounds for believing that there is a real risk of serious harm because conditions amount to inhuman or degrading treatment as within [paragraphs 339C and 339CA\(iii\) of the Immigration Rules](#) / Article 3 of the [European Convention on Human Rights \(ECHR\)](#)
- that the security situation is such that there are substantial grounds for believing there is a real risk of serious harm because there exists a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict as within [paragraphs 339C and 339CA\(iv\) of the Immigration Rules](#)
- a person is able to obtain protection from the state (or quasi state bodies)
- a person is reasonably able to relocate within a country or territory
- a claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- if a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under [section 94 of the Nationality, Immigration and Asylum Act 2002](#).

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual](#), 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate and balanced, which is compared and contrasted where appropriate so that a comprehensive and up-to-date picture is provided of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote. Full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

Feedback

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the Country Policy and Information Team.

Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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Assessment

Updated: 30 November 2021

1. Introduction

1.1 Basis of claim

- 1.1.1 Fear of persecution and/or serious harm by state and/or non-state actors because of the person's actual or perceived sexual orientation and/or gender identity or expression.

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1.2 Points to note

- 1.2.1 This note provides an assessment of the general situation of gay men, lesbians, bisexuals, trans and intersex persons as well as those perceived as such. They are referred sometimes collectively as 'LGBTI persons', though the treatment and experiences of each group may differ.

- 1.2.2 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Exclusion

- 2.2.1 Decision makers must consider whether one (or more) of the exclusion clauses applies. If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection. Each case must be considered on its individual facts and merits.

- 2.2.2 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instructions on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), Humanitarian Protection and the instruction on [Restricted Leave](#).

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2.3 Convention reason(s)

- 2.3.1 A person's actual or imputed membership of a particular social group (PSG).
- 2.3.2 LGBTI persons in Sri Lanka form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it, and have a distinct identity which is perceived as being different by the surrounding society.
- 2.3.3 In the country guidance case [LH and IP \(gay men: risk\) Sri Lanka CG \[2015\] UKUT 00073 \(IAC\)](#), promulgated on 18 February 2015 (heard on 6–8 August 2014) the Upper Tribunal found that, although all LGBTI persons form a PSG, with regard specifically to those who are in a civil partnership or married, that they '...do not consider that individuals whose civil partner status or status as married homosexuals is not reflected in their legal status in their country of origin form a separate particular social group' (para 25).
- 2.3.4 Although LGBTI persons in Sri Lanka form a PSG, establishing such membership is not sufficient to be recognised as a refugee. The question to be addressed is whether the particular person will face a real risk of persecution on account of their membership of such a group.
- 2.3.5 For further guidance on Convention reasons see the instruction on [Assessing Credibility and Refugee Status](#).

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2.4 Risk

a. General points

- 2.4.1 Sri Lanka has a total land area of 65,610 sq. km and an estimated population of over 23 million. The number of persons in Sri Lanka who identify as LGBTI is estimated to be between 5% and 12% of the population (estimated up to approximately 1,469,574 people) (see [Societal Norms](#)).
- 2.4.2 Paragraphs 35 and 82 of the determination of the Supreme Court's ruling in [HJ \(Iran\) and HT \(Cameroon\) v Secretary of State for the Home Department \[2010\] UKSC 31](#), heard 10,11,12 May and promulgated 7 July 2010, has set out the approach to take and established the test that should be applied

when assessing a claim based on a person's sexual orientation, which can also be applied to claims based on a person's gender identity / expression.

- 2.4.3 For further information, see the Asylum Instruction on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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b. State treatment of LGB persons

- 2.4.4 Same-sex sexual acts for both men and women are a criminal offence even if they are consensual under Section 365 and 365 (a) of the Penal Code. Those who are prosecuted under these sections face a term of imprisonment which may extend to 10 years and also may face a fine. Lack of legal interpretation means that the police can arrest and detain LGB persons even if no sexual act took place (see [Statutory laws](#) and [Implementation and enforcement of the law](#)).
- 2.4.5 While other laws do not specifically relate to LGB persons, they are sometimes arrested under the Vagrancy Ordinance, which gives the authorities the power to detain those who they consider to be loitering in public. According to one source, Section 353 of the Penal Code (which relates to abduction) is also used against those in same-sex relationships, particularly lesbians. Antidiscrimination laws do not prohibit discrimination based on sexual orientation and gender identity or expression. There is little information pertaining to the exact reasons for, or how frequent and widespread such arrests are in the sources consulted (see [Other legal provisions affecting LGBTI persons](#)).
- 2.4.6 Official figures on crime between 2016 and 2018 reported by the Sri Lankan police in 2018 show the following:
- 2016: 33 gay men were prosecuted (100% of the cases filed)
 - 2017: 6 gay men were prosecuted (75% of the cases filed)
 - 2018: 9 gay men were prosecuted (100% of the cases filed)
- 2.4.7 Details regarding the prosecutions, including whether the cases were 'unnatural offences' that included same-sex acts carried out without consent, could not be found in the sources consulted. Official figures on the prosecutions of gay men and those in the LGBTI community generally in Sri Lanka have not been specifically reported on since 2018, but it has been claimed that between October 2019 and October 2020 6 gay men were prosecuted (see [Implementation and enforcement of the law](#)).
- 2.4.8 In the country guidance case [LH and IP \(gay men: risk\) Sri Lanka CG \[2015\] UKUT 00073 \(IAC\)](#), promulgated on 18 February 2015 (heard on 6–8 August 2014), the Upper Tribunal (UT) noted '...that s.365 [of the penal code] dates from before Sri Lanka's Independence in 1948; but that there have been no prosecutions since Independence (para 16). It also found that in general the treatment of gay men in Sri Lanka does not amount to persecution or serious harm (para 123(3)).
- 2.4.9 The UT in [LH and IP](#) also found that there is a 'significant population of homosexuals and other LGBT individuals in Sri Lanka, in particular in Colombo. While there is more risk for lesbian and bisexual women in rural

areas, because of the control exercised by families on unmarried women, and for transgender individuals and sex workers in the cities, it will be a question of fact whether for a particular individual the risk reaches the international protection standard, and in particular, whether it extends beyond their home area.’ (Para 123(4)).

- 2.4.10 The findings in [LH and IP](#) were in part based on the US State Department’s Human Rights report of 2013 which stated that the police sometimes detained, harassed, extorted money from and assaulted members of the LGBTI community. Subsequent USSD human rights reports – including the most recent, covering events in 2020 – have reported the same type and level of treatment. Sources, including the USSD, have reported on isolated incidences of mistreatment of LGBTI persons since 2017; namely 7 persons who were forced to undergo physical examinations to provide proof of same-sex conduct, including forced anal and vaginal examination, and 6 gay men who were physically mistreated and threatened in custody following their arrest in October 2019. However, there are few reported cases of harassment by the authorities and the evidence does not demonstrate that the situation has changed significantly for LGBTI individuals since the findings in LH and IP (see [Implementation and enforcement of the law](#) and [Arrests and detention of LGB persons](#)).
- 2.4.11 Evidence does not indicate that incidences of detention of those seen to be loitering or the threat of the use of section 365 and 365 (a) are generally sufficiently serious by their nature and repetition as to amount to persecution and therefore do not warrant a departure from the finding made in [LH and IP](#).
- 2.4.12 On 15 July 2015 the Supreme Court of Sri Lanka heard, and on 30 November 2016, handed-down their judgment in [Galabada Payagalaga Sanath Wimalasari and others vs Officer-in-Charge \(SC Appeal No. 32/11\)](#). This court hearing addressed the constitutional challenge to section 365a of the Penal Code (gross indecency convictions) following a magistrate in 2003 imposing a term of imprisonment of one year (and fine of Rs.1,500) of two gay men following consensual sexual activity in a public place. Such conduct could also lead to a prosecution in the UK.
- 2.4.13 The Supreme Court heard the evidence again and concluded that there was no reason to interfere with the finding of guilt in this case. However, the Supreme Court went on to look into whether the sentence imposed on the appellant was excessive in light of the circumstances of this case. Although the Supreme court stated that whilst in some countries criminalisation of same sex acts had been repealed, they noted that in Sri Lanka it remained part of the law. However, given that the incident had taken place over 13 years previously, the appellants’ lack of previous convictions or criminal history and considering the fact that the act was consensual the Supreme Court ruled that a custodial term of imprisonment did not appear to be commensurate with the offence. The one-year sentence was set aside and substituted with a sentence of 2 years rigorous imprisonment, suspended for a period of 5 years in order to offer the offenders the ‘opportunity to reform’.
- 2.4.14 The Supreme Court in the case of [Galabada](#) took into consideration the fact that the act itself was consensual but noted that same sex activity remained illegal in Sri Lanka and could therefore not overturn the guilty verdict.

- 2.4.15 Although the Supreme Court in [Galabada](#) did not overturn the guilty verdict, as the law was correctly applied in 2003 and had not changed since, it showed a nuanced approach by overturning the custodial sentence. Although it suggested the offenders should have an ‘opportunity to reform’ the court gave no indication of what that might mean and although ‘conversion therapy’ happens in Sri Lanka, there is no evidence that this is forced upon a person by the state or was referred to in the Galabada case (see [Conversion therapy](#)).
- 2.4.16 In 2018, the courts in the UK allowed an asylum appeal submitted by a Sri Lankan national against the decision to refuse her application for asylum on the basis of her profile as a transgender woman in a relationship with a gay man. The Secretary of State appealed the court’s decision to grant the appeal on the basis it amounted to an error of law, as it departed from the established position of the risk to gay men in LH and IP. In November 2018, the UK Upper Tribunal dismissed the Secretary of State’s appeal and held in the unreported determination in [Secretary of State for the Home Department v. MKMR \(PA/01821/2018\)](#) (heard 1 November 2018, promulgated 26 November 2018) that the Galabada case ‘shows at the very least that contrary to the basis on which the Tribunal proceeded in LH and IP at [16] that the criminal law has been used in Sri Lanka, if only once but nonetheless recently and in a judgment of the Sri Lankan Supreme Court.’ [para 28].
- 2.4.17 In the case of Galabada, two men were prosecuted for engaging in oral sex in public, whereas the appellant in the [MKMR](#) case was trans and engaged to be married. As such, any conclusions drawn from this case should be looked at in light of these specific aspects. Notwithstanding this, the Upper Tribunal noted that ‘The argument in the grounds that the judge approached the case on a syllogistic basis, that just because two gay men indulged in an incident that breached public order, it did not mean that all gay men in Sri Lanka will receive the same treatment does not stand up to analysis. This is not what the judge said. He considered whether the appellant would be at risk and found that he would.’ [Para 31].
- 2.4.18 Furthermore, whilst the Upper Tribunal in this case stated that ‘The grounds argue that the judge was wrong not to follow the country guidance in LH and IP. We are satisfied that in the light of that judgment it was open to the judge to take the view that judgment in Galabada was cogent evidence providing strong grounds for not following LH and IP and to find that there was a reasonable degree of likelihood that the appellant would be at risk of persecution on return. We also note that in LH and IP the Tribunal accepted that transgender individuals might be more at risk than other gay men and in the present case the appellant is seeking to transition to female’ [Para 32]. Therefore, they do not appear to be endorsing a departure from [LH and IP](#) but merely concluding that the First-tier Tribunal judge was open to do so in that particular case.
- 2.4.19 Although [MKMR](#) suggested that the First-tier judge was open to consider whether the Galabada verdict was cogent evidence for not following LH and LP, it is unlikely that this would prove to be enough on its own, having taken into account all other country information.

- 2.4.20 Whilst incidents of harassment, assault, extortion through money or sexual favours by the authorities do take place, including reports of a few individuals having been beaten and undergoing forced physical examinations at the hands of the authorities, the available country evidence, however, does not in general establish that a person who is open about sexual orientation is likely to face treatment that is generally sufficiently serious by their nature and repetition as to amount to persecution or serious harm.
- 2.4.21 Available evidence shows that arrests and prosecutions of LGBTI persons has occurred. Similarly, there is evidence of incidences of mistreatment against them. However, relative to the estimated population of people who identify as LGBTI in Sri Lanka, the scale and extent of such incidences is low. The reporting often describes or conflates discrimination, intimidation, abuse and violence without specifying the scale and extent of each. Therefore, a person may be able to establish a real risk of persecution or serious harm but, in general, LGBTI persons are unlikely to be subject to treatment by the state that is sufficiently serious, by its nature or repetition, to amount to persecution. Each case must be considered on its own facts and the onus is on the person to demonstrate that they would be at risk of persecution or serious harm on return to Sri Lanka.
- 2.4.22 On 1 March 2021, ‘Zero Discrimination Day’, President Rajapaksa tweeted that he was determined to secure everybody’s right to a dignified life irrespective of various grounds, including gender and sexual orientation. This was seen by LGBT activists as a ground-breaking statement, the first open acknowledgement of LGBT rights by a Sri Lankan Head of State (see [Official views on sexual orientation and gender identity](#)).
- 2.4.23 If a person does not openly express their sexual orientation or gender identity, consideration must be given to the reasons why they do not. If it is concluded that a material reason for the person living discreetly on their return would be a fear of the persecution which would follow if they were to live openly, then, other things being equal, their application should be accepted. Each case must be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.
- 2.4.24 For further guidance on assessing risk, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#).
- 2.4.25 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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c. State treatment of trans and intersex persons

- 2.4.26 There are no laws which specifically criminalise transgender or intersex people in Sri Lanka. However, section 399 of the Penal Code, which bans ‘cheating by impersonation’, is sometimes used against trans persons on the basis that their gender expression does not match the gender stated on their ID and as such the state sees them as pretending to be a different gender. The police arrest people under the Vagrancy Ordinance, which gives the authorities the power to detain people who they consider are loitering in

public (see [Trans persons](#) and [Other legal provisions affecting LGBTI persons](#)).

- 2.4.27 The Vagrancy Ordinance is also sometimes used against LGB persons, but transgender persons are more likely to be affected by this owing to their increased visibility. Those who engage in sex work or who have a lower social economic status, particularly trans women, are more vulnerable to abuse, sexual harassment and mistreatment while in police custody (see [Arrests and detentions of trans persons](#) and [Societal norms- gender and sexual identity](#)).
- 2.4.28 The Upper Tribunal in [LH and IP](#) found that ‘...While there is more risk ... for transgender individuals and sex workers in the cities, it will be a question of fact whether for a particular individual the risk reaches the international protection standard, and in particular, whether it extends beyond their home area.’ (Para 123(4)).
- 2.4.29 The risk of arrest for trans persons is generally higher than the rest of the LGB community owing to their increased visibility. Whilst incidents of harassment by the authorities do take place, the country evidence does not indicate that they are generally sufficiently serious by their nature and repetition as to amount to persecution or serious harm. However, decision makers must consider whether there are particular factors relevant to the person which might make the treatment serious by its nature or repetition.
- 2.4.30 CPIT was unable to find any information about the number, circumstances or treatment of intersex persons. There is, however, no reason to believe that they are treated differently from other sexual minority groups.
- 2.4.31 If a person does not openly express their sexual orientation or gender identity, consideration must be given to the reasons why they do not. If it is concluded that a material reason for the person living discreetly on their return would be a fear of the persecution which would follow if they were to live openly, then, other things being equal, their application should be accepted. Each case must be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.
- 2.4.32 For further guidance on assessing risk, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#).
- 2.4.33 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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d. Societal treatment of LGB persons

- 2.4.34 Anti-LGB sentiment is deeply ingrained in Sri Lankan culture with most Sri Lankans holding conservative views about sexual orientation and gender identity. However a recent study sponsored by the Foreign, Commonwealth and Development Office suggested attitudes may be changing and those with a more positive attitude towards LGBT people are likely to be under 30 years old, living in urban areas, educated to tertiary levels or higher, have a higher level of awareness of LGBT identities, report more interaction with LGBT people and are likely to follow Buddhism or Hinduism. However, the

study continued to reveal 'positive and negative perceptions are held depending on a particular issue and context, which suggests there is work to be done to address stigma and stereotypes and build knowledge and awareness'. There is no legislation which protects LGB persons from discrimination or hate crimes (see [Societal norms](#) and [Statutory laws](#)).

- 2.4.35 LGB persons face stigma, discrimination, harassment, emotional and verbal abuse and pressure and coercion into heterosexual marriage. Most LGB persons do not live openly as LGB persons due to social stigma. However, treatment of members of the LGB community varies, with those from higher economic and educated backgrounds being more likely to be open about their sexual orientation with friends and family. Those from poorer, more rural areas, particularly lesbian and bisexual women, face more family pressure to conform to gender norms (see [Societal norms](#)).
- 2.4.36 Some families pressured LGB persons to seek treatment to 'cure' their sexual orientation, considering their children's behaviour as an early indication of them being gay (see [Societal norms](#) and [Conversion therapy](#)).
- 2.4.37 LGB persons frequently face discrimination in accessing employment, housing and health services. In order to avoid discrimination and hate crimes some members of the LGB community hide their identity (see [Societal treatment, violence and discrimination](#) and [Access to services](#)).
- 2.4.38 There are no services such as restaurants, bars, shops or public spaces to socialise, that cater for openly LGB people. The online LGB community has however increased, particularly on social media sites such as Facebook, which are seen as safe areas for socialising and organising dates. The LGB activist community is small but increasingly assertive. NGO Equal Ground, who work for the LGB community, have faced discrimination when organising events and have faced difficulties in their attempts at engaging with the government on LGB issues. Other LGB activists or those working for their rights have faced threats and attacks on social media, or been denied registration (see [LGBTI 'community and society'](#), [LGBTI websites and online access](#), [LGBTI community and activists](#) and [Government recognition and restrictions](#)).
- 2.4.39 The Upper Tribunal in [LH and IP](#) found that there is a 'significant population of homosexuals and other LGBT individuals in Sri Lanka, in particular in Colombo' and that 'while there is more risk for lesbian and bisexual women in rural areas, because of the control exercised by families on unmarried women, ... and sex workers in the cities, it will be a question of fact whether for a particular individual the risk reaches the international protection standard, and in particular, whether it extends beyond their home area.' (Para 123(4)).
- 2.4.40 In general, the level of societal discrimination and abuse faced by LGB persons in Sri Lanka is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm. However, decision makers must consider whether there are particular factors relevant to the person, including their ethnic or religious background, socio-economic factors, age and family background which might make the treatment serious by its nature or

repetition (see also the Country Policy and Information Notes on [Sri Lanka: Minority religious groups](#) and [Sri Lanka: Tamil separatism](#)).

- 2.4.41 If a person does not openly express their sexual orientation or gender identity, consideration must be given to the reasons why they do not. If it is concluded that a material reason for the person living discreetly on their return would be a fear of the persecution which would follow if they were to live openly, then, other things being equal, their application should be accepted. Each case must be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.
- 2.4.42 For further guidance on assessing risk, see the instruction on [Assessing Credibility and Refugee Status](#).
- 2.4.43 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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e. Societal treatment of transgender and intersex persons

- 2.4.44 Transgender persons face threats, harassment and stigma from the community and owing to their increased visibility are more likely to face discrimination in access to services such as housing, employment and health care (see [Societal treatment, violence and discrimination](#)).
- 2.4.45 Transgender persons could face a risk of ill treatment at the hands of their family who may use physical and emotional violence as punishment to force gender conformity. Some families may pressure individuals to undergo conversion therapy in an attempt to get them to conform to gender norms (see [Societal norms](#) and [Conversion therapy](#)).
- 2.4.46 The Upper Tribunal in [LH and IP](#) found that there is a 'significant population of homosexuals and other LGBT individuals in Sri Lanka, in particular in Colombo' and that 'while there is more risk for ... transgender individuals and sex workers in the cities, it will be a question of fact whether for a particular individual the risk reaches the international protection standard, and in particular, whether it extends beyond their home area.' (Para 123(4)).
- 2.4.47 The level and frequency of discrimination and violence faced by transgender persons may differ according to their socio-economic status and/or geographic location (see [Societal norms](#)).
- 2.4.48 See also the earlier paragraph which has details of a study of societal attitudes to all LGBT people.
- 2.4.49 In general, trans persons in Sri Lanka face a risk of societal discrimination and violence and those who are open about their gender identity may be at risk of treatment which by its nature and repetition amounts to persecution. However, this may differ depending on an individual's socio-economic status, religion, ethnic group and geographic location (see also the Country Policy and Information Notes on [Sri Lanka: Minority religious groups](#) and [Sri Lanka: Tamil separatism](#)).

- 2.4.50 CPIT could find no information about the number, circumstances or treatment of intersex persons. There is, however, no reason to believe that they are treated differently from other sexual minority groups.
- 2.4.51 If a person does not openly express their sexual orientation or gender identity, consideration must be given to the reasons why they do not. Each case must be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.
- 2.4.52 For further guidance on assessing risk, see the instruction on [Assessing Credibility and Refugee Status](#).
- 2.4.53 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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2.5 Protection

- 2.5.1 Where the person has a well-founded fear of persecution from the state, they will not, in general, be able to obtain protection from the authorities.
- 2.5.2 Where the person has a well-founded fear of persecution from non-state actors, including 'rogue' state actors, decision makers must assess whether the state can provide effective protection.
- 2.5.3 There are no legal safeguards to prevent discrimination based on sexual orientation or gender identity. Incidents of homophobia frequently go unreported due to people wanting to protect their identities. Police often misinterpret the laws on the basis of a person's appearance or behaviour and there have been reports of police assaulting, harassing, anally-probing and extorting money or sexual favours from LGBTI persons, particularly in Colombo as well as other areas (see [State attitudes and treatment](#)).
- 2.5.4 The lack of anti-discrimination legislation to protect the rights of LGBTI persons has meant that they have no recourse to a remedy when particular laws are used against them in a discriminatory manner. Such discrimination is further enabled and promoted by the continued criminalisation of same-sex activity and, therefore, stigmatisation of LGBTI persons. LGBTI persons who are the victims of violence or hate crimes will often not report these crimes to the police without fear that their sexual orientation or gender identity or expression will be exposed or highlighted. This can lead to further discrimination and marginalization and to potential prosecution under articles 365 and 365A of the Penal Code (see [Implementation and enforcement of the law](#)).
- 2.5.5 Effective protection in individual cases is often unavailable and in general, the state appears able but unwilling to offer effective protection. As such, the person will not be able to avail themselves of the protection of the authorities. However, each case will need to be considered on its facts (see [Official response to anti-LGBTI violence](#) and [Pro LGBTI marches/gay pride](#)).
- 2.5.6 For further guidance on assessing the availability of state protection, see the instruction on [Assessing Credibility and Refugee Status](#).

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2.6 Internal relocation

- 2.6.1 Where the person has a well-founded fear of persecution or serious harm from the state, they are unlikely to be able to relocate to escape that risk.
- 2.6.2 Where the person has a well-founded fear of persecution or serious harm from a non-state actor, including 'rogue' state actors, decision makers should consider each case on its individual circumstances to ascertain if this is localised and could be removed by internal relocation.
- 2.6.3 Sri Lanka has a total land area of 65,610 sq. km and an estimated population of over 23 million. The law allows for freedom of internal movement and the government has generally respected these rights, although security checkpoints and roadblocks still occur in parts of the country.
- 2.6.4 The Upper Tribunal in [LH and IP \(gay men: risk\) Sri Lanka CG \[2015\] UKUT 00073 \(IAC\)](#) found that internal relocation would normally be sufficient to enable an individual to avoid the risk of serious harm/persecution since risks are usually from family, friends or neighbours especially for gay men, particularly if they relocated to the more 'gay-friendly' cities such as Colombo (paragraph 119). The Tribunal also held that 'where a risk of persecution or serious harm exists in an appellant's home area, there may be an internal relocation option, particularly for individuals returning via Colombo from the United Kingdom' (paragraph 123(5)).
- 2.6.5 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation taking full account of the individual circumstances of the particular person.
- 2.6.6 Internal relocation is not viable if it depends on the person concealing their sexual orientation and / or gender identity/expression in the area of relocation for fear of persecution.
- 2.6.7 For further guidance on internal relocation see the instruction on [Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Sexual identity issues in the asylum claim](#).

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2.7 Certification

- 2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.7.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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Country information

Section 3 updated: 30 November 2021

Note: Most sources refer to LGB persons collectively, rather than individual groups. The exception is usually trans persons. Therefore, because of the way reports quoted within the country information section of this CPIN have been written and set out, information about lesbians has been included within sections headed LGB persons, and transgender persons are usually considered separately.

3. Legal context

3.1 Statutory laws

3.1.1 Article 12 of the Constitution states that all persons are equal before the law and that no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any other such grounds. It does not, however, include sexual orientation or gender identity among the grounds upon which discrimination is prohibited¹.

3.1.2 Same-sex acts are a criminal offence in Sri Lanka even when they are consensual. Section 365 of the Penal Code states that:

‘Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be punished with fine and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount - determined by court to the person in respect of whom the offence was committed for injuries caused to such person.’²

3.1.3 Section 365A of the Penal Code further states that:

‘Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts [to] procure the commission by any person of, any act of gross indecency with another person, shall he [sic] guilty of an offence, and shall be punished with imprisonment of either description, for a term which may extend to two years or with fine or with both and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.’³

3.1.4 The Australian Government’s Department for Foreign Affairs and Trade’s (DFAT) ‘Country Report for 2019’ (the 2019 DFAT Report) noted that

¹ The Parliament of Sri Lanka, [‘The Constitution’](#), 2015

² Sri Lanka: [Penal Code \[Sri Lanka\]](#), Chapter 19, 1 January 1885

³ Sri Lanka: [Penal Code \[Sri Lanka\]](#), 1 January 1885

‘Sections 365 and 365 (a) of the Penal Code make it a criminal offence to engage, respectively, in “carnal intercourse against the order of nature” and “acts of gross indecency”. These are commonly understood to apply to sexual acts between same-sex individuals and can attract sentences of up to 10 years’ prison and a fine.’⁴

3.1.5 The US State Department’s Country Report on Human Rights Practices, covering events in 2020 stated: ‘The law criminalizes consensual same-sex sexual conduct between adults. Those convicted of engaging in same-sex sexual activity in private or in public face 10 years’ imprisonment... Antidiscrimination laws do not prohibit discrimination based on sexual orientation and gender identity.’⁵

3.1.6 According to an Equal Ground publication called ‘My Rights, My Responsibility’ published in January 2020:

‘This law [section 365 and 365A] is inherently problematic for several reasons; it fails to define what amounts to “against the order of nature”, does not provide direction as to what qualifies as “gross indecency”, and fails to indicate the distinction between “public and private”. The lack of legal interpretations allows law enforcement to abuse the powers given to them by virtue of these laws to arrest, detain or harass persons of the LGBTIQ community by wilfully misinterpreting the laws and its intentions. Sections 365 and 365A specifically speak about consenting sexual relations and does not limit it to same sex acts.’⁶

3.1.7 The report continued ‘In fact, the section includes both heterosexual and same-sex acts alike and apply to any sexual act between persons if such an act falls within the interpretation of “against the order of nature and/or is grossly indecent”.’⁷

3.1.8 An October 2020 article published by Groundviews by Shihara Maduwage, Media and Communications Officer at Equal Ground, explained:

‘according to Section 365, sexual intercourse needs to occur for it to be constituted as a crime in the eyes of the law. 365A, on the other hand, is more ambiguous; the term “gross indecency” can be interpreted in different ways and does not necessarily mean that a sexual act needs to take place for a charge to be placed. In other words, a simple act such as holding of hands by a same-sex couple in public can be constituted as an act of indecency and they can be arrested. This means that the police are free to judge what constitutes as “gross indecency” and arrest individuals – whether they are LGBTIQ persons or not. Further, in both these provisions, whether the acts are consensual or not is not taken into account.’⁸

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⁴ DFAT, ‘[Country Report](#)’, (3.148), 4 November 2019

⁵ USSD, ‘[2020 Country Report](#)’, (page 29), 11 March 2020

⁶ Equal Ground, ‘[My Rights, My Responsibility](#)’, 7 January 2020

⁷ Equal Ground, ‘[My Rights, My Responsibility](#)’, 7 January 2020

⁸ Shihara Maduwage (Groundview), ‘[Arrests and Harassment of LGBTIQ Persons](#)’, 22 October 2020

3.2 Trans persons

- 3.2.1 There are no recent sources which give information on laws directly concerning trans persons (see sources consulted in the [Bibliography](#)). However, Section 399 of the Penal Code states 'A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is'.⁹ Amnesty International and World Political Review noted that this law has been used to target trans persons on the basis that they are pretending to be a different gender with the malicious intent of cheating others^{10 11}.
- 3.2.2 A joint Parallel Report to the UN Committee on the Elimination of Discrimination against Women of 2017 regarding Sri Lanka's Protection of the Rights of LGBTI Persons by Kaleidoscope Human Rights Foundation and Equal Ground, Sri Lanka, observed: '[T]ransgender persons in Sri Lanka often have a difficult time obtaining official documentation that reflects their preferred name and gender. This means that transgender persons are effectively prevented from accessing an accurate national identity card or passport.'¹²
- 3.2.3 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ [Lesbian, Gay, Bisexual, Transgender, Intersex, Queer/Questioning] people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated: 'Sri Lanka fails to respect the gender identity of transgender people by failing to enact into law an administrative procedure whereby transgender individuals can obtain, upon simple request, identity documents that match their name and gender identity. At present, in order to obtain revised identity documents, transgender individuals must undergo psychiatric evaluation, hormone therapy and surgical treatments, which may or may not be wanted and, if wanted, may not be available due to issues of access and cost. As a result, many transgender individuals have not been able to obtain national identity cards and other official documents that accurately reflect their name and gender identity, leaving them vulnerable to humiliation, discrimination, harassment and the possibility of violence at each of the many times in daily life when such documents must be presented.'¹³
- 3.2.4 The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) noted in their 'Trans Legal Mapping Report- Recognition before the law' published in November 2017 that in order to change a person's sex on their birth certificate they can obtain a Gender Recognition Certificate (GIC) issued by the Ministry of Health, Nutrition and Indigenous Medicine. However, the GIC is only issued after 'the person receives psychiatric diagnosis of transsexualism based on the International Classification of Disease (10th revision), is referred for hormone and surgical treatment, and undergoes treatment in accordance to the World Professional Association of

⁹ National Legislative Bodies/National Authorities, '[Penal Code](#)', 1 January 1885

¹⁰ Amnesty International, '[Sri Lanka: End discrimination against LGBTI people](#)', 7 December 2019

¹¹ WPR, '[What's at Stake for LGBT People as Sri Lanka Reforms Its Constitution](#)', 1 August 2017

¹² Kaleidoscope and Equal Ground, '[Report](#)' (pg 7), 2017

¹³ Equal Ground, '[Report](#)' (p. 2), May 2017

Transgender Health's Standards of Care. This is only available for those over 18 years of age.¹⁴

- 3.2.5 In a letter dated 27 August 2018, the British High Commission in Colombo stated that

'Individuals are now able to have their change of gender recognised. A Gender Recognition Certificate (GRC) can be applied for which then enables the issuance of a new passport and National Identity Card. The British High Commission, Colombo, met someone who has gone through this process and who advised that it was handled in a relatively short period of time. The only drawback is that the new passport carries an "endorsement" that states that the bearer is a transgender person whose previous passport was issued under such name and such gender marker.'¹⁵

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3.3 Intersex

- 3.3.1 CPIT was unable in the sources consulted to find information on laws relating to intersex persons in Sri Lanka (see [Bibliography](#)).

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3.4 Other legal provisions affecting LGBTI persons

- 3.4.1 In December 2019 Amnesty International noted that 'the Vagrants Ordinance, a 178-year-old law has been used to disproportionately target LGBTI people, allowing the police to take them into custody and even put them in prison to extort or harass them'¹⁶. However, this source does not provide evidence as to the prevalence of this continuing.

- 3.4.2 According to an Equal Ground publication called 'My Rights, My Responsibility' published in January 2020:

'Section 353 of the Penal Code relating to abduction is also used against individuals in same sex relationships especially targeting lesbians. ... In a similar manner the vagrants Ordinance No. 4 of 1841 is also used to disproportionately target and punish community members; the intention of this archaic law is to punish those deemed to be "rogues and vagabonds" behaving in an idle and disorderly manner. Section 07 of the vagrants Ordinance is commonly used to arrest members of the community for soliciting and acts of public indecency.'¹⁷

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Section 4 updated: 30 November 2021

4. State attitudes and treatment

4.1 Implementation and enforcement of the law

- 4.1.1 Attorney-at-law Dushantha Kularathne, told Sri Lanka brief, in January 2017, that:

¹⁴ ILGA, ['Trans Legal Mapping Report- Recognition before the law'](#), November 2017

¹⁵ BHC letter, 27 August 2018, [Annex A](#).

¹⁶ Amnesty International, ['Sri Lanka: End discrimination against LGBTI people'](#), 7 December 2019

¹⁷ Equal Ground, ['My Rights, My Responsibility'](#), 7 January 2020

‘...homosexuality in Sri Lanka is definitely an offence, but conceded that it is indeed open to interpretation... Homosexuality, among other things, comes under “unnatural offences” or acts of a sexual nature that go against nature, as per section 365 of the Penal Code. According to Kularathne, however, no cases have been reported of anyone actually being prosecuted for being gay...

‘In other words, the law exists but it’s not implemented? Not exactly, says Kularathne. “I can’t say that it’s not implemented. It can be implemented. It’s just that our courts of law and our police officers don’t go up to the extent of implementing it as it is – as it’s set out in the law,” he said. When asked for any examples, Kularathne said that although he has not heard of anyone been prosecuted solely for being gay, there have been cases in high court for unnatural offences that included acts of a homosexual nature carried out without consent. “But with consent I have not seen a single case to date. That is very unlikely to happen. Those sort of prosecutions never happen” said Kularathne. “Not that it cannot happen – it can,” he hastened to add, “but not to my knowledge.”’¹⁸

4.1.2 An article published by The Wire in January 2017, noted:

‘Sri Lanka’s cabinet rejected a proposal to end discrimination based on sexual orientation because it could legitimise homosexuality, which is illegal on the island, a government minister said on Wednesday, January 18...

‘Health minister Rajitha Senarathne said the cabinet had refused to endorse a provision in a proposed human rights plan that would have undermined the code. “There was a provision referring to the sexual orientation of individuals and we clearly said it was not acceptable,” said Senarathne, who is also the government spokesman. “The government is against homosexuality, but we will not prosecute anyone for practising it,” the minister said, adding that the island’s conservative Buddhist clergy was also opposed to the provision. He said the proposed National Human Rights Action Plan included a provision to remove “discrimination based on sexual orientation”.’ The article added: ‘Rights activists say although there have been no known prosecutions in recent decades, Article 365 of the penal code is discriminatory and stigmatises homosexuality.’¹⁹

4.1.3 The Sri Lanka Brief, in January 2017, reported that a statement by the National Peace Council in response to the government’s decision not to proceed with legal reform that decriminalizes homosexuality, said: ‘We note that same sex relations are rarely if ever prosecuted in the Sri Lankan courts.’²⁰

4.1.4 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated ‘Sri Lanka continues to criminalize adult, consensual same-sex sexual

¹⁸ Sri Lanka brief, [‘Sri Lanka Officially Refuses To Go Gay’](#), 19 January 2017

¹⁹ The Wire, [‘Sri Lanka Scuttles Move to Legitimise Homosexuality’](#), 19 January 2017

²⁰ Sri Lanka Brief, [‘Protection of minority rights must include sexual minorities’](#), 30 January 2017

conduct. This leads to arbitrary arrests and detentions, police harassment and acts of extortion....²¹

- 4.1.5 The Women and Media Collective report 'Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online' published in December 2017 noted that '... [D]ue to the generally private contexts in which most sexual acts take place, Sections 365 and 365A are nearly ineffective against the criminalised acts themselves. Still, even without enforcement, the laws act to suppress the identities and relationships of people with alternative sexual orientation and/or gender identities.'²²
- 4.1.6 In a letter dated 27 August 2018 the British High Commission in Colombo stated that '[...] same sex relations are illegal but the FCO is not aware of any prosecutions. There have been no reports of those identifying as LGBT having their homes/hotel rooms raided by police'.²³
- 4.1.7 In reference to the [2018 Performance Report of the Sri Lanka police](#); a report submitted to Parliament to measure police effectiveness against objectives, being gay is considered a 'vice' which is defined as 'offences that impact adversely on morality and well-being which is expected from the society.'²⁴ The report reveals that, under this provision, the police prosecuted 33 men 'for homosexuality' in 2016, 6 in 2017, and 9 in 2018²⁵. However, the details surrounding these 'offences' – including whether the cases were between consenting, same-sex adults – are not known.
- 4.1.8 Furthermore, official police reports show that, in 2019, 710 cases of 'Unnatural offences / Grave sexual abuse' were recorded of which 699 were pending at years end, and in 2020, 677 cases were reported of which 665 were pending at years end²⁶. The [2019 Performance Report of the Sri Lanka Police](#) did not include any information on arrests or prosecutions of LGBTI persons. However, the figures, again, do not provide details of the offences or a breakdown of how many of the cases recorded were between consensual, same-sex adults. CPIT could not find information pertaining to how many men or woman have been prosecuted for their sexuality, if at all, since 2018 in the sources consulted (see [Bibliography](#)).
- 4.1.9 An October 2020 article published by Groundviews by Shihara Maduwage, Media and Communications Officer at Equal Ground, stated in relation to these figures:

'This also shows that the legal system does not take consent, nor the age of consent, into account when considering sexual relations among same-sex adults. (Ironically, while the report does distinguish between cases of consensual same-sex sexual relations and cases of sexual abuse, it does dedicate a separate section to record cattle theft!) This highlights the vague, imprecise, and unclear nature of Sri Lanka's laws criminalising same-sex

²¹ Equal Ground, 'Report' (p. 2), May 2017

²² WMC, '[Disrupting the Binary Code: Experiences of LGBT Sri ...](#)', (P23), December 2017

²³ See [Annex A](#).

²⁴ [Performance report \(2018\) of the Sri Lanka police](#) page 36

²⁵ [Performance report \(2018\) of the Sri Lanka police](#) page 37

²⁶ Sri Lanka Police website, '[Crime Statistics webpage](#)' nd

sexual relations among consenting adults, leaving ample room for the police to abuse these laws and use them to target the LGBTIQ community.²⁷

4.1.10 Amnesty International considered in December 2019 that, despite every citizen having their Fundamental Right to Equality protected under Article 12 of the Constitution, LGBTI individuals continue to be ‘harassed, marginalized and abused on the basis of their real or perceived gender identity and/or sexual orientation’²⁸.

4.1.11 The USSD report covering 2020 stated: ‘Although prosecutions were rare, human rights organizations reported police used the threat of arrest to assault, harass, and sexually and monetarily extort LGBTI individuals.’²⁹

4.1.12 Although the law does not criminalise being gay, lesbian or having any particular sexual orientation, Equal Ground noted in their January 2020 publication ‘My Rights, My Responsibility’ that: ‘there have been incidents reported where the police has arrested LGBTIQ individuals using threat of these laws, for socializing in public.’³⁰

4.1.13 An October 2020 article published by Groundviews by Shihara Maduwage, Media and Communications Officer at Equal Ground, stated:

‘In September [2020], a local newspaper revealed that the Fort Magistrate’s Court was set to sentence two men who had confessed to engaging in same-sex sexual relations. The news garnered quite a bit of attention and stirred up controversy. However, this is nothing new; the police repeatedly persecute the LGBTIQ community in Sri Lanka, using several sections in the Penal Code – primarily Sections 365 and 365A....

‘In a Facebook post, LGBTIQ activist and lawyer, Aritha Wickramasinghe, highlighted another case where the police had arrested three gay men in a hotel room in Colombo in 2019. According to Mr. Wickramasinghe, the men were not engaging in sexual relations but they are being prosecuted for same-sex sexual relations because they had condoms in their wallets.’³¹

4.1.14 The same article further noted:

‘The existence of these anti-LGBTIQ laws, coupled together with their murky and vague nature, enables the police and lawmakers to enforce these laws as they see fit. Anecdotal evidence shows that most of such cases are not even brought to courts; instead, the police uses the threat of arrest to intimidate LGBTIQ individuals, often to solicit bribes. In addition, the trauma of such experiences prevents victims from reporting police abuse, harassment, and undue arrests. What this means is that, since most LGBTIQ individuals fear the police more than the courts, these laws impose a power imbalance and allows the very people who are meant to protect the law to break it.’³²

4.1.15 On 6 August 2021, The Morning, a Sri Lankan news source, reported:

²⁷ Shihara Maduwage (Groundview), [Arrests and Harassment of LGBTIQ Persons](#), 22 October 2020

²⁸ AI, ‘[Sri Lanka: End discrimination against LGBTI people](#)’, 17 December 2019

²⁹ USSD, ‘[2020 Country Report](#)’, (page 29), 11 March 2020

³⁰ Equal Ground, ‘[My Rights, My Responsibility](#)’, 7 January 2020

³¹ Shihara Maduwage (Groundview), [Arrests and Harassment of LGBTIQ Persons](#), 22 October 2020

³² Shihara Maduwage (Groundview), [Arrests and Harassment of LGBTIQ Persons](#), 22 October 2020

'This past week, a video clip was shared widely on social media of a counsellor being discriminatory against the LGBT community at a training session with the Sri Lanka Police in Kandy.

The video featured counsellor Ama Dissanayake inciting her audience to declare loudly that they, as parents, do not wish for their children to "fall prey to a homosexual". Amongst other things, she goes on to also claim that if everyone was to engage in same sex relationships then "you or I won't be here" as a man and woman must come together to procreate.³³

4.1.16 The report continued:

'We reached out to lawyer and iProbono Equality Director Aritha Wickramasinghe with regards to this matter where a counsellor is making such harmful statements at a Sri Lanka Police training session.

'Wickramasinghe stated: "It's a training given to the Sri Lanka Police that is spreading misinformation, discrimination, and hate against a marginalised community. So the Police could be in violation of the right to equality and the non-discrimination provisions as this is their training programme." He added: "The Attorney General has held on several occasions that discrimination against LGBT individuals violates the Right to Equality under Article 12 and the Freedom from Discrimination under Article 12.1 of the Constitution."

'Sharing further about the duty that befalls the Sri Lanka Police, he added: "The Sri Lanka Police have a responsibility to uphold the constitutional rights of citizens, including when conducting their training because their training has a direct impact on how they conduct their duties." He further noted: "LGBT individuals risk becoming victimised and persecuted because of this training. And this training proves that homophobia is being institutionalised in police education."³⁴

4.1.17 On 4 August 2021, the Colombo Gazette, Sri Lanka's leading news website, reported, in relation to counsellor Ama Dissanayake's comments, that:

'The Government says discussions are still ongoing with regards to Lesbian, Gay, Bisexual, and Transgender (LGBT) rights in Sri Lanka.

'Cabinet co-spokesman Keheliya Rambukwella said that while discussions are ongoing with regards to LGBT rights, constitutionally it is not recognized.

"As far as the Constitution of Sri Lanka goes it is not permitted. But there are discussions ongoing. This subject has been discussed over and over again. But right now it is not legalized," he said.

'However, he said he was not aware if the Police are acting against any LGBT activities.

"There are representations made from various quarters. It has not been completely ruled out nor has it been accepted," he said.

'The Minister was responding to a question raised by Daily Mirror at a post Cabinet press conference over a video shared on social media showing a

³³ TM, '[LGBT discrimination by Sri Lanka police: Violation of their own laws...](#)', 6 August 2021

³⁴ TM, '[LGBT discrimination by Sri Lanka police: Violation of their own laws...](#)', 6 August 2021

counsellor discriminating against the LGBT community at a training session with the Police.³⁵

- 4.1.18 In November 2021 a news article by the Sri Lankan Daily Mirror reported that: ‘Ten civil society activists have filed a writ petition in the Court of Appeal challenging the ever-rising abuse, harassment and discrimination against individuals of the Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning (LGBTIQ) community, at the hands of the Police. The petitioners are seeking a Writ of Prohibition preventing Police from conducting training sessions, lectures or seminars which dehumanize and discriminate against the LGBTIQ community in the country...

‘They have cited Inspector General of Police C.D. Wickramarathna, Ama Dissanayake, a counsellor and psychologist, who conducted a training program at the Police Auditorium in Kandy and Deputy Inspector General of Police Chandana Alahakoon as respondents. The Petitioners state that according to an island-wide survey conducted by the petitioners in 2020-2021, titled “Mapping LGBTIQ Identities in Sri Lanka”, 12% of the total population who interviewed for the survey, identified themselves as LGBTIQ, a projected total of 1,469,574 individuals, within the projected base of persons between the ages of 18-65 in Sri Lanka. The Petitioners state that it is now common knowledge that members of the LGBTIQ community face grievous prejudice in their daily lives, and, most concerning, that they even find themselves in situations that pose a direct threat to their lives and wellbeing, at the hands of other individuals and public authorities...

‘The petitioners said the second respondent Ama Dissanayake was seen and heard, conducting a training program at the Police Auditorium in Kandy, proclaiming to the entire audience of police officers, most explicitly that homosexuals in Sri Lanka are predatory, and inquired from the participants of concern about their children falling prey to homosexual individuals. She has further stated that homosexuality is a complete affront to social and biological norms, as such relationships cannot result in procreation. The petitioners said the video relating to police the councillor educating and encouraging Police officers to discriminate against the LGBT community has been uploaded in its entirety on the YouTube Channel.³⁶

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4.2 Arrests and detention of LGB persons

- 4.2.1 A 2016 Human Rights Watch (HRW) Report stated: ‘LGBTI people arrested based on their gender expression, gender identity, or sexual orientation are typically detained without proper cause or evidence, and consequently are rarely detained for extended periods of time. As a result, they may have less overall exposure to police officials in detention and may experience less abuse than Sri Lankans arrested for other crimes.’³⁷
- 4.2.2 In November 2016, the Sri Lankan Supreme Court heard a case, commonly referred to as Galabada from 2003, in which an accused appellant was

³⁵ Colombo Gazette, ‘[LGBT rights still under discussion](#)’, 4 August 2021

³⁶ Daily Mirror (Sri Lanka), [Alleged discrimination against LGBTIQ community by police: Civil society activists seeks Court’s intervention](#), 14 November 2021

³⁷ HRW, [“All Five Fingers Are Not the Same” - Discrimination on ...](#), (p30), 15 August 2016

charged along with another accused before the Magistrates' Court for 'committing an act of gross indecency between two persons in terms of Section 365A of the Penal Code'. Court documents show that the Magistrate had found the appellant and the other accused guilty despite the intercourse being consensual and imposed a term of imprisonment of one year and imposed a fine of Rs. 1,500 with a default sentence of 6 months. The Supreme Court heard all the evidence again and determined that the sentence of the one-year term of imprisonment should be set aside and substituted with a sentence of 2 years rigorous imprisonment, suspended for a period of 5 years, with the Supreme Court stating that the 'offenders should be afforded an opportunity to reform themselves'³⁸.

4.2.3 Human Rights Watch reported in September 2019 that: 'Some lesbian, gay, bisexual, and transgender (LGBT) people – particularly those who are visibly gender non-conforming – face arbitrary arrest, police mistreatment....'³⁹

4.2.4 The November 2019 DFAT Report noted that 'Police have arrested individuals under these sections, but no prosecutions have occurred in recent times. According to local LGBTI sources, police use sections 365 and 365 (a) of the Penal Code or the Vagrants Ordinance (which empowers authorities to detain people considered to be loitering in public) to threaten, harass, extort money and sexual favours, and arbitrarily arrest and detain LGBTI individuals.'⁴⁰

4.2.5 Equal Ground noted in their January 2020 publication 'My Rights, My Responsibility' that: 'law enforcement is known for its culture of arbitrary arrests and detention, and the wilful misinterpretation of these laws allow them to easily target the LGBTIQ community... In short – the LGBTIQ community remains fearful of a police force that is known for a culture of intolerance and abuse towards them.'⁴¹

4.2.6 The 2020 USSD report noted that:

'On October 20, Human Rights Watch and LGBTQ rights NGO Equal Ground said in a statement that authorities had subjected at least seven persons to forced physical examinations, including forced anal and vaginal examination, since 2017 in an attempt to provide proof of homosexual conduct. LGBTQ rights advocates said that authorities abused six defendants detained for male homosexual conduct following their arrest in October 2019. This included whipping them with wires and courts ordering three of the men to undergo HIV tests without their consent, the results of which were made public in court. One defendant said that after the police severely whipped him, they forced him to undergo an anal examination. In another case, a man was threatened that a choice to reject an anal exam could be used against him in a potential prosecution.'⁴²

³⁸ Sri Lankan, '[Supreme Court case- SC Appeal No.32/11](#)', 30 November 2016

³⁹ HRW, '[Country Profiles: Sexual Orientation and Gender Identity, Sri Lanka](#)', 23 September 2019

⁴⁰ DFAT, '[Country Report](#)', (3.148), 4 November 2019

⁴¹ Equal Ground, '[My Rights, My Responsibility](#)', 7 January 2020

⁴² USSD, '[2020 Country Report](#)', (page 29), 11 March 2020

4.2.7 In October 2020, Gay Star News, a news website focused on issues related to the global LGBTI community, also reported on the case of six men who were detained and mistreated:

‘... A lawyer revealed he had defended six men in the last 12 months accused of gay sex. This remains illegal in Sri Lanka with a punishment of up to 10 years in jail and fines.

‘The men say the authorities whipped them with wires before making them have anal probe tests. The court ordered three of the men to also have HIV tests without their consent.’⁴³

4.2.8 According to the Freedom House ‘Freedom in the World Report’ 2021, covering events in 2020, ‘LGBT+ people face... some official harassment. A rarely enforced article of the penal code prescribes up to 10 years in prison for same-sex sexual activity...’⁴⁴

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4.3 Arrests and detentions of trans persons

4.3.1 The 2016 HRW Report stated:

‘Ajith Rohana, senior superintendent of police of Colombo-North, told Human Rights Watch that he was aware of concerns that transgender people have expressed about police mistreatment. Specifically, he acknowledged that police have arrested people for loitering in a public place and carrying condoms. He further noted that police occasionally arrested transgender people for “cheating by personation,” which is illegal under section 399 of the Penal Code. When this happened, transgender people were generally taken to a police station for questioning and held there for five to six hours, he said. In addition, some transgender people reported verbal abuse from police officers.

‘Rohana said that the national police training curriculum has addressed some of these concerns since 2011, initially incorporating them into refresher courses for advanced officers, and now introducing such concerns to new officers.’⁴⁵

4.3.2 The same report cited incidents where two transgender women, one from Colombo and the other from Jaffna, had been arrested for ‘cheating by personation’⁴⁶.

4.3.3 Kajal, a South Asian magazine, reported in an article, dated March 2018 that: ‘Public spaces in Sri Lanka are heavily policed for “decency,” and LGBTQ people face arrest or extortion if they are caught.’⁴⁷

4.3.4 The 2019 DFAT report noted that: ‘Transgender individuals, particularly individuals who are biologically male but have transitioned to female, by

⁴³ Gay Star News, ‘[Sri Lanka whipped suspected gay men with wires...](#)’, 20 October 2020

⁴⁴ Freedom House, ‘[Freedom in the World 2021](#)’, (section F4), 3 March 2021

⁴⁵ HRW, ‘[“All Five Fingers Are Not the Same” - Discrimination on ...](#)’, (p36-37), 15 August 2016

⁴⁶ HRW, ‘[“All Five Fingers Are Not the Same” - Discrimination on ...](#)’, 15 August 2016

⁴⁷ Kajal, ‘[New Study Recommends How to Keep LGBTQ Sri Lankans Safe Online](#)’, 1 March 2018

virtue of being more visibly identifiable, are considered particularly vulnerable.¹⁴⁸

- 4.3.5 An Equal Ground publication called ‘My Rights, My Responsibility’ published in January 2020 noted that Section 399 of the Penal code is: ‘frequently misused to abuse and arrest transgender individuals by the police, because their gender expression do not match the gender stated on their national identification documents wrongfully claiming that it is “cheating by personation” which is a definition adopted by law enforcement contrary to the intention of and the definition in law. Additionally, the law does not consider whether or not the impersonation is of a real or imaginary person.’¹⁴⁹
- 4.3.6 In October 2020, Gay Star News reported on one instance concerning mistreatment of a transgender man:
- ‘...The lawyer also said that in 2019, police forced a transgender man to undergo a so-called ‘virginity test’.
- To do this, a judicial medical officer inserted two fingers inside the man’s vagina.
- The police attempted to prosecute the man for same-sex conduct, but a magistrate dismissed the case. The court recognized the trans man’s gender recognition certificate and his marriage to a cisgender woman as valid.’¹⁵⁰
- 4.3.7 According to the 2020 USSD report ‘Transgender persons continued to face ...arbitrary detention.’¹⁵¹

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4.4 Arrests and detentions of intersex persons

- 4.4.1 CPIT was unable in the sources consulted to find information on arrests and detentions of intersex persons in Sri Lanka (see [Bibliography](#)).

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4.5 Official discrimination and harassment

- 4.5.1 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated: ‘The lack of any Constitutional protection or anti-discrimination laws or policies has exposed LGBTIQ individuals to pervasive discriminatory treatment in all aspects of daily life, including employment, housing, health care, education and law enforcement.’¹⁵²
- 4.5.2 The DFAT report for 2019 noted that: ‘Equal Ground, in its 2017 mapping study, found that 46.7 per cent of LGBTI people experienced police harassment. LGBTI victims of abuse and harassment, including by the police, are generally unwilling to file complaints due to safety concerns and a

⁴⁸ DFAT, ‘[Country Report](#)’, (3.148), 4 November 2019

⁴⁹ Equal Ground, ‘[My Rights, My Responsibility](#)’, 7 January 2020

⁵⁰ Gay Star News, ‘[Sri Lanka whipped suspected gay men with wires...](#)’, 20 October 2020

⁵¹ USSD, ‘[2020 Country Report](#)’, (page 29), 11 March 2020

⁵² Equal Ground, ‘[Report](#)’ (p.6), May 2017

reluctance to bring attention to their sexual orientation, meaning their incidence goes largely unreported.’⁵³

4.5.3 In June 2019, Groundviews reported that:

‘[The State of] Emergency has serious implications for LGBTQIA+, or queer, Sri Lankans in the immediate term. For a community that already faces harassment and violence by security forces while navigating their daily lives, the spectre of increased security checks and procedures is daunting. This is particularly acute for transgender Sri Lankans, who ordinarily face higher scrutiny because their official identification documents may not match their gender identity and presentation...’⁵⁴

4.5.4 Amnesty International also reported in October 2019, that, ‘LGBTI people routinely face harassment and discrimination at the hands of the police and other state officials.’⁵⁵

4.5.5 An Equal Grounds publication called ‘My Rights, My Responsibility’ published in January 2020 stated that:

‘...law enforcement is known for its culture of arbitrary arrests and detention and the wilful misinterpretation of these laws allow them to easily target the LGBTIQ community. The tumultuous relationship between the police and the LGBTIQ community is also evident in the way police officers hurl homophobic slurs at these individuals often in very public places- “ponnaya (faggot), come here samanalaya (butterfly derogatively used to mean queer or pansy) where did you go!” When such abuse is perpetrated by the same institutions that are meant to protect the peace and security of all citizens, it is no surprise that LGBTIQ individuals hesitate to actually lodge complaints of the violence and discrimination they are subject to. In short- the LGBTIQ community remains fearful of a police force that is known for a culture of intolerance and abuse towards them.’⁵⁶

4.5.6 A recent research project undertaken by the Asia Pacific Transgender Network (APTN) in 2020 and published in March 2021 looked at conversion therapy practices (CTPs) being ‘implemented against trans and gender-diverse people’ in a variety of Asian countries, including Sri Lanka⁵⁷. The report noted that ‘Trans and gender diverse citizens, as well as cisgender non-heteronormative citizens, especially those from underprivileged and socio-economically deprived backgrounds, face considerably high levels of transphobic and homophobic violence from law enforcement agencies.’⁵⁸

In a recent ‘Mapping LGBTIQ Identities in Sri Lanka’ exercise by Equal Ground, where qualitative (8 Focus Group Discussions in 4 districts) and quantitative (national survey covering all 25 districts with a sample size of 4500) data collection techniques were utilised, it was found that ‘In a recent ‘Mapping LGBTIQ Identities in Sri Lanka’ exercise by Equal Ground, where qualitative (8 Focus Group Discussions in 4 districts) and quantitative

⁵³ DFAT, ‘[Country Report](#)’, (3.148), 4 November 2019

⁵⁴ Groundviews, ‘[Pride under Emergency](#)’, 28 June 2019

⁵⁵ AI, ‘[Sri Lanka: Human rights must be at the heart of next presidency](#)’, 18 October 2019

⁵⁶ Equal Ground, ‘[My Rights, My Responsibility](#)’, 7 January 2020

⁵⁷ APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’ (p. 3), 31 March 2021

⁵⁸ APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’ (p. 4), 31 March 2021

(national survey covering all 25 districts with a sample size of 4500) data collection techniques were utilised, it was reported that 'the survey results show that 12% of the total population interviewed for the survey identified themselves as LGBTIQ which can be projected to a total of 1,469,574 individuals within the projected base of people between the ages of 18-65 in Sri Lanka.'⁵⁹

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4.6 Official response to anti-LGBTI violence

4.6.1 Outright International, following its study of interviewing 33 lesbians, bisexual women and trans people (LBT), published its findings in May 2016.

'This research thus suggests that incidents of physical violence, both in the public and private spheres, remain under-reported and undocumented, and that LBT people who experience physical violence rarely seek compensation, redress or even counselling from mental health service providers who work with women who have experienced violence – such as domestic violence programs or support groups...'

'When they were the victims of violence in a public space, such as on the street, at community gatherings, in public transport, or at the workplace – and targeted for their gender non-conformity or sexual orientation – there was reluctance to report the violence for fear of being personally exposed as LBT. Even when the crime is not related to their sexuality or gender identity, LBT individuals feel vulnerable because of a Penal Code provision that can be read to criminalize adult consensual same sex sexual activity. In fact, some of the LBT people we spoke to specifically cited both Section 365A of the Penal Code and the Vagrants Ordinance as reasons used to target them for arrest and harassment.

'Police in Sri Lanka are generally perceived by the LBT community as dangerous. A reason for this perception is that police officers use blackmail and violence against people who they perceive to be homosexual, bisexual or transgender. In this context, interviews revealed that LBT persons doubted the possibility of getting redress for violence by police.

'Additionally, the court system in Sri Lanka is generally not victim-friendly. Court hearings are open to the public, which deters most people from reporting violence they experience to the police so as to avoid going to court. They fear that their sexual orientation and gender identity could be exposed in open court when the reasons for the violence are revealed.

'Furthermore, as mentioned earlier in this chapter, the Human Rights Commission, the Police Commission, the Public Services Commission, and the Judicial Services Commission are not trusted to function independently since these commissions are made up of presidential appointees.'⁶⁰

4.6.2 In July 2016, delegates from a UK Home Office Fact Finding Mission to Sri Lanka (the 2016 UK FFM) met with a representative from Equal Ground (EG), a non-profit organisation seeking human and political rights for LGBT

⁵⁹ Equal Ground, [Mapping LGBTIQ Identities in Sri Lanka](#) (p. 12), June 2021

⁶⁰ Outright International, ['Violence: Through the lens of LBT people'](#) (pp. 25/26), 6 May 2016

community of Sri Lanka. The UK FFM delegates asked Equal Ground whether the government, police or judiciary provided LGBTI persons with security and justice, but were told:

'No they do not. But during the 2016 Pride celebration there were a lot of threats from Sinhala Buddhist nationalists particularly towards a public event Equal Ground (EG) was planning to hold to publicise Colombo Pride 2016. EG made a complaint to a police station about the threats, and plain clothes police officers were sent to protect them. The police took no action against the Buddhist nationalists. The Buddhist nationalists never turned up, but all threats are taken seriously... On an individual basis police do not protect. In fact, they are the main perpetrators of violence and discrimination against LGBTI persons.'⁶¹

- 4.6.3 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated 'Sri Lanka continues to criminalize adult, consensual same-sex sexual conduct. This leads to arbitrary arrests and detentions, police harassment and acts of extortion, reluctance on the part of LGBTIQ people to report crimes to the police, and, more generally, the perceived legitimization of violence and discrimination based on sexual orientation and gender identity.'⁶²
- 4.6.4 In March 2019, the Sri Lanka Daily Mirror reported that: 'Speaking to the Daily Mirror, LGBTIQ Rights Activist Rosanna Flamer-Caldera said ... that people have erroneously made up their minds against females and the LGBTIQ community in Sri Lanka. She stated that there is too much impunity in Sri Lanka and there is no legal action being taken against those who harass women and LGBTIQ people which ultimately contributes to such incidents.'⁶³
- 4.6.5 Amnesty International noted in a report dated 7 December 2019, discussing the release of a comic book detailing the experiences of four LGBTI people, that: 'The stories that highlight the experiences ... show the alarming and various ways the police handle cases that involve LGBTI people, often treating them like criminals when they are the ones being victimized... individuals in Sri Lanka continue to face discrimination, abuse and a complete lack of protection for their real or perceived sexual orientation or gender identity.'⁶⁴
- 4.6.6 DFAT noted in November 2019 that 'According to local sources, police protection of LGBTI individuals at public events such as LGBTI marches has increased since 2015. Local sources identified extremist Buddhist and Muslim groups as posing particular threats to the LGBTI community.'⁶⁵
- 4.6.7 A recent research project undertaken by the Asia Pacific Transgender Network (APTN) in 2020 and published in March 2021 looked at conversion

⁶¹ UK Home Office's '[Fact Finding Mission to Sri Lanka](#)' (p. 51), 11 – 23 July 2016

⁶² Equal Ground, '[Report](#)' (p. 2), May 2017

⁶³ Daily Mirror, '[Closing the door on sexual abuse](#)', 8 March 2019

⁶⁴ AI, '[Sri Lanka: End discrimination against LGBTI people](#)', 7 December 2019

⁶⁵ DFAT, '[Country Report](#)', (3.154), 4 November 2019

therapy practices (CTPs) being ‘implemented against trans and gender-diverse people’ in a variety of Asian countries, including Sri Lanka. The research involved 15 interviews and interactions with members of the trans community, including LGBTI community leaders and human rights professionals⁶⁶. The report noted:

‘As a result of the cultural practice of never questioning one’s elders, the interviews helped shed light on the fact that there exists a great deal of reluctance among trans and gender diverse people affected by CTPs to file cases against their perpetrators. The fear of further violence from law enforcement, ill-treatment and systemic discrimination at the hands of the judiciary, and further repercussions and the transphobia that may follow if their stories were to become public, are among the reasons that keep many trans and gender diverse people from making complaints or taking legal action against perpetrators of CTPs....

‘Despite the lack of clear legislation that protects the rights of trans and gender diverse citizens, certain mechanisms, such as lodging complaints at the Sri Lanka Medical Council, remain open to trans and gender diverse people victimised by CTPs. Respondents repeatedly highlighted the clear need for protective legislation that identifies the harmful consequences of conversion practices and bans them. In tandem, strong awareness-raising campaigns and multi-pronged efforts to challenge transphobia, homophobia, and intersexphobia are an absolute priority in Lankan society. Homophobic and transphobic colonial-era laws are still being used to promote conversion practices among both non-het and non-cis citizens by instilling fear in them and by subjecting them to explicit threats of prosecution.

‘Overall, major gaps remain in the legal protections for trans and gender diverse citizens.’⁶⁷

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4.7 Official views on sexual orientation and gender identity

4.7.1 The 2019 ILGA report on State-sponsored Homophobia stated that:

‘In 2013, the then President Mahinda Rajapaksa denied a spousal visa to the Norwegian ambassador’s same-sex wife. In a discussion with representatives from the Bodhu Bala Sena, he explained that the country’s “Sinhala Buddhist identity would come to an end if we allow these actions.”

‘In a January 2017 interview the Minister for Justice Wijeyadasa Rajapaksa, basing his argument on the religious nature of Sri Lankan society, said regarding 365 and 365A, “under no circumstance are we going to change that law”. Elsewhere, he called “homosexuality” a “mental disorder”, a comment that sparked public outcry. In August 2017, he said that lesbianism “equals sadism” and advocated the rape of lesbians by convicted sexual offenders to “cure” them. He added, “Lesbianism is at least an act of gross indecency and unnatural”.’⁶⁸

⁶⁶ APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’, 31 March 2021

⁶⁷ APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’ (p. 7), 31 March 2021

⁶⁸ ILGA, ‘[State Sponsored Homophobia 2019](#)’ (p473)

4.7.2 The same report also noted:

'In November 2018, the Sri Lanka president accused his political opponent of rejecting national values for a "butterfly life" and claimed that his decisions were led by a "butterfly caucus". The Sinhalese term for "butterfly" is used as a derogatory term alluding to LGBT people. This led to a protest in Colombo by LGBT activists protesting the president's "insidious references degrading the LGBTIQ community" as well as a media statement condemning the president's statements.'⁶⁹

4.7.3 The 2019 DFAT report stated:

'Local sources told DFAT that the current government [now the previous government] is more open than the previous one to the concerns of the LGBTI community. The government accepted recommendations to combat discrimination against LGBTI individuals as part of its most recent Universal Periodic Review at the HRC (November 2017), including specific recommendations to amend sections 365 and 365 (a) of the Penal Code, although it rejected recommendations to decriminalise same-sex conduct. A Pride parade has been held in Colombo since 2005, albeit in a low-key manner because of security concerns. The Colombo Pride parade was not held in 2019, following the Easter Sunday terrorist attacks, although a festival of other LGBTI events did proceed. The media discusses LGBTI issues openly and some LGBTI individuals have adopted a high profile, particularly in Colombo.'⁷⁰

4.7.4 Despite these instances, on 01 March 2021, Sri Lanka President Gotabaya Rajapaksa tweeted:⁷¹



4.7.5 In response to President Rajapaksa's statement, prominent LGBT Sri Lankan human rights activist and lawyer Aritha Wickramasinghe posted on social media site 'Facebook', commending the Tweet:

⁶⁹ ILGA, '[State Sponsored Homophobia 2019](#)' (p473)

⁷⁰ DFAT, '[Country Report](#)', (3.153), 4 November 2019

⁷¹ Gotabaya Rajapaksa, (@GotabayaR on Twitter.com, '[Tweet dated 05:26 UK time, 1 March 2021](#)'

'In a powerful message today, President Gotabaya Rajapaksa announced that he was determined to secure everybody's right to a dignified life irrespective of various grounds, including gender and sexual orientation.

'President Rajapaksa becomes the first Head of State in Sri Lanka to openly acknowledge the rights of #LGBT Sri Lankans. A remarkable statement.

'He stands in stark contrast to his predecessor President Maithripala Sirisena who openly espoused homophobia and used terms like 'butterflies' to ridicule LGBT people. This was despite being elected on a platform of inclusion.

'Thank you Mr. President for acknowledging our right to a dignified life free from discrimination.'⁷²

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4.8 Ombudsman/Complaints' mechanism(s)

4.8.1 According to an Equal Ground publication called 'My Rights, My Responsibility' published in January 2020 which focuses on the rights and laws that affect the LGBTIQ community in Sri Lanka, 'There is no specific legal device to address the rights and protections of the LGBTIQ community and therefore common law applies. However, the Sri Lankan Constitution grants Fundamental Rights (FR) to all citizens and these rights should not be violated other than in exceptional situations specifically mentioned in the Constitution and within the emergency laws of the country which allows specific restrictions.'⁷³

4.8.2 The article went on to note that: 'Any action violating your rights in Chapter III of the Constitution which lists your Fundamental Rights, is grounds enough for you to file a FR Petition in the Supreme Court.'⁷⁴

4.8.3 The same article also noted that complaints can also be lodged with the Human Rights Commission of Sri Lanka, the National Authority for the Protection of Victims of Crimes and Witnesses and the National Police Commission⁷⁵.

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Section 5 updated: 30 November 2021

5. Societal norms

5.1 Overview

5.1.1 According to the CIA World Factbook, the estimated population of Sri Lanka in July 2021 was 23,044,123⁷⁶. The number of LGBTI persons in Sri Lanka could be as high as 5% of the population, according to a Daily Mirror (Sri Lanka) an online article published in January 2018. The article noted:

'A mapping study recently conducted by Equal Ground reported that 19.6% percent [sic] of people over 18 living in Colombo, Matara, Nuwara Eliya &

⁷² Aritha Wickramasinghe on Facebook.com, '[Status update 18:00 UK time, 1 March 2021](#)'

⁷³ Equal Ground, '[My Rights, My Responsibility](#)', 7 January 2020

⁷⁴ Equal Ground, '[My Rights, My Responsibility](#)', 7 January 2020

⁷⁵ Equal Ground, '[My Rights, My Responsibility](#)', 7 January 2020

⁷⁶ CIA World Factbook, '[Sri Lanka](#)', nd

Galle identify as LGBT. This may seem a rather large proportion and the report does mention that this number may be slightly skewed for the simple reason that the enumerators conducting the mapping were “LGBTIQ” [lesbian, gay, bisexual, transgender/transsexual, intersex and queer/questioning] friendly and therefore approached more LGBTIQ persons for the study. It also mentions that LGBT persons felt more comfortable with these enumerators and therefore felt free to identify themselves.⁷⁷

- 5.1.2 Rosanna Flamer-Caldera, the executive director of Equal Ground, the main LGBT organisation in Sri Lanka, described in the Daily Mail article the situation for LGBT people Sri Lanka, noting that ‘stigma and discrimination’ forced LGBT persons underground, making it difficult to determine accurate numbers of those who identify as LGBT⁷⁸.
- 5.1.3 In a recent ‘Mapping LGBTIQ Identities in Sri Lanka’ exercise by Equal Ground, where qualitative (8 Focus Group Discussions in 4 districts) and quantitative (national survey covering all 25 districts with a sample size of 4500) data collection techniques were utilised, it was reported that ‘the survey results show that 12% of the total population interviewed for the survey identified themselves as LGBTIQ which can be projected to a total of 1,469,574 individuals within the projected base of people between the ages of 18-65 in Sri Lanka. Among them, 8% identified themselves as bisexual, 0.5% as gay, 0.5% as lesbian, 1% as transgender and 2% as other. The highest number of those identifying themselves as LGBTIQ was found between the ages of 18 – 29.’⁷⁹
- 5.1.4 The report further noted that ‘11% of LGBTIQ respondents had faced some form of abuse or discrimination due to their SOGIE, compared to the 8% of non-LGBTIQ respondents. The most common challenges faced were verbal abuse, assault, discrimination and harassment by the police, by family and/or at work.’⁸⁰
- 5.1.5 Roar Media reported in 2018 that ‘Younger LGBTIQ activists tell us that revealing their true gender identity is easier in Colombo. The community is larger, and the general populace are more tolerant as a result.’⁸¹
- 5.1.6 The same article also noted however, that:
- ‘... according to Tanya, the Acting Executive Director of Heart to Heart Lanka, it is still difficult for people from poorer families to come out, find jobs, or be treated with dignity. “It’s very hard, in reality. It’s quite alright for the posher Colombo 07 people; they can be doctors and lawyers and such. The poorer people have it harder and are often mistreated, which is why they leave their families or live a life of secrecy. It’s also really hard to find work thanks to societal perceptions, which again is why you get many trans people who are engaged in sex work or who are dancers,” she added.

⁷⁷ Daily Mirror (Sri Lanka), [‘Counting in LGBT’](#), 22 January 2018

⁷⁸ Daily Mirror (Sri Lanka), [‘Counting in LGBT’](#), 22 January 2018

⁷⁹ Equal Ground, [Mapping LGBTIQ Identities in Sri Lanka](#) (p. 7 and 8), June 2021

⁸⁰ Equal Ground, [Mapping LGBTIQ Identities in Sri Lanka](#) (p. 12), June 2021

⁸¹ Roar Media, [‘Fitting In As A Transwoman In Sri Lanka’](#), 26 June 2018

'When Roar Media queried as to why the trans community claimed Colombo to be more open and accepting if it wasn't so, Tanya told us that it was because where most of the trans community converge.

"There's more of a network here, and there are a lot more facilities than there are outstation. You do get a lot of closeted people in Colombo as well, but you also get a good support system. You won't see hundreds of us in public though, because we're a relatively small community in a country with an already small population. It's not like in America or India and all," she concluded.

'This isn't to say that there is enough trans visibility in Colombo; the activists tell us that transmen have a harder time revealing their gender identity.'⁸²

5.1.7 In a letter dated 27 August 2018 the British High Commission in Colombo stated that "There remains significant social exclusion for being LGBT which is perpetuated by stigma, cultural taboos and conservative, traditional and religious attitudes".⁸³

5.1.8 The 2019 DFAT report noted that:

'Reliable figures on the size of Sri Lanka's LGBTI community are not available. Equal Ground, a local NGO advocating for LGBTI rights, estimates that between 5 and 10 per cent of Sri Lanka's total population could be LGBTI...

'According to local sources, the LGBTI community faces threats, harassment and forced heterosexual marriage from family and members of the community. Some middle and upper class, educated, and urban Sri Lankans are open about their sexuality within their family and community circles; however, risks are higher for lesbian and bisexual rural women due to more traditional familial expectations and values.

'...many LGBTI individuals – especially Muslims – hide their identity to avoid harassment. Local sources told DFAT that some families pressure LGBTI individuals to seek treatment to "cure" their homosexuality at dedicated profit-making centres or through witchcraft.

'...Local sources told DFAT that hostility toward LGBTI individuals was "across the board" and was not confined to a particular ethnic group or geographic area. Colombo (Western Province), Kandy (Central Province) and Galle (Southern Province) are considered more tolerant of sexual orientation relative to other parts of Sri Lanka. Some LGBTI individuals have chosen to relocate to these centres, which have larger LGBTI communities and support networks.

'According to local sources, anti-LGBTI sentiment is deeply ingrained in Sri Lankan culture and society, particularly in rural areas. The majority of Sri Lankans hold conservative views about sexual orientation and gender identity, and many prioritise collective values over individual rights.'⁸⁴

⁸² Roar Media, '[Fitting In As A Transwoman In Sri Lanka](#)', 26 June 2018

⁸³ See [Annex A](#)

⁸⁴ DFAT, '[Country Report](#)' (paras 3.147, 3.151 and 3.156), 4 November 2019

5.1.9 A study was conducted by The Social Scientists Association for the Westminster Foundation for Democracy under the Commonwealth Equality Project on the knowledge, attitudes, and perceptions of Sri Lankans about Sri Lankan LGBT persons in 2020. The study was comprised of a structured questionnaire, available in Sinhala, Tamil and English and was distributed among 2130 people in all of Sri Lanka's 25 districts. The sample was composed of respondents from different genders, age, education and religious groups. The study found that: 'The survey revealed a mixed picture: the vast majority of people think that LGBT people face discrimination, violence and or/abuse because they are LGBT, and a majority do not agree that they should be punished. However, positive and negative perceptions are held depending on a particular issue and context, which suggests there is work to be done to address stigma and stereotypes and build knowledge and awareness.'⁸⁵

5.1.10 The same study revealed:

'Many respondents had positive attitudes towards LGBT persons in varied contexts. For instance, 59.7% said they will not be ashamed to travel next to a gay or lesbian person.

'Attitudes were mixed or negative in some contexts. On whether it would be shameful for a transgender person to be President of Sri Lanka, 49.5% agreed and 48% disagreed.'⁸⁶

5.1.11 The study also highlighted:

'Positive perceptions are evident in some contexts. A majority of people (72.5%) said a person living life as a LGBT person should not be punished for their sexual identity; 65% said a LGBT person can do a job as well as any other person; and just over half (51.4%) said they would support legislation to ensure the rights of LGBT persons.

'However, negative perceptions are evident in some contexts closer or more personally relevant to a respondent. 59.5% said renting their house to a LGBT person would be a problem.

'48.6% said it would not be shameful to have a LGBT child; 44.4% said it would.

'Respondents subscribe to many social prejudices against Sri Lankan LGBT persons. For instance, 51.4% said they go against my religion and 52.3% said association encourages a person to become like them; although upwards of 40% disagreed.'⁸⁷

5.1.12 More key findings of the same study included:

'The vast majority of respondents acknowledge discrimination is experienced by LGBT persons in different public and private contexts in Sri Lanka, irrespective of the respondents' awareness, attitudes, and perceptions of LGBT. Examples of percentages of respondents who said Sri Lankan LGBT

⁸⁵ WFD, '[Sri Lankans' perceptions of LGBT persons](#)', 28 June 2021

⁸⁶ WFD, '[Sri Lankans' perceptions of LGBT persons](#)', 28 June 2021

⁸⁷ WFD, '[Sri Lankans' perceptions of LGBT persons](#)', 28 June 2021

persons are discriminated or harassed because they are LGBT persons include:

- 89% said LGBT persons face violence and abuse on social media because they are LGBT
- 87% said LGBT persons face discrimination in finding rental housing and/or in school because they are LGBT
- 69% said LGBT persons face discrimination by the police because they are LGBT⁸⁸

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5.2 Societal norms - gender and sexual identity

5.2.1 In an undated page on Sri Lanka's 'Customary norms, religious beliefs and social practices that influence gender-differentiated land rights' the Food and Agricultural Organisation of the United Nations (FAO) noted that 'The gender division of household labour is deeply ingrained though it is more flexible in the lower castes and classes. Women generally make decisions on household matters, education of children and health. Men make other major decisions such as buying and selling of assets. Traditionally women engage in household work and income generation within the home and contribute to the household economy by working in family farms.'⁸⁹

5.2.2 Outright International, following its study of interviewing 33 LBTs, published its findings in May 2016 and noted that:

'Twelve out of 33 interviews highlighted the constant pressures that butch lesbians and transgender people face in having to perform and live according to culturally expected gender norms—from being forced to marry, to having to wear particular clothes and maintaining certain hairstyles—all of which were experienced as psychological and emotional violence. Cultural and gender norm enforcement was also experienced as violence when interviewees were quizzed about their gender identity when using public toilets. Similarly, some interviewees were forced to keep their sense of self a secret and not look "too gay" in order to keep the family reputation intact. Some interviewees also spoke of being denied jobs or promotions on the basis of their gender expression – "not looking feminine enough" – and losing employment because their identity cards did not match their appearance.'⁹⁰

5.2.3 According to the Institute for Participatory Interaction in Development (IPID) report 'Rapid Situation Assessment of Transgender Persons in Sri Lanka' published in December 2016 'The Sri Lankan transgender community use the term "Nachchi" to identify themselves, similar to Hijras in India, which they use to recognise the male-to-female transgenders, although generally the term transgender includes various groups including cross dressers,

⁸⁸ WFD, '[Sri Lankans' perceptions of LGBT persons](#)', 28 June 2021

⁸⁹ FAO, '[Sri Lanka- Customary norms, religious beliefs and social...](#)', undated

⁹⁰ Outright International, '[Violence: Through the lens of LBT people](#)' (p. 17), 6 May 2016

transsexuals, and gender non-confirming persons. Some transgender persons experience a fluidity of identities.’⁹¹

- 5.2.4 As specified in the Human Rights Watch report, “All Five Fingers Are Not the Same” - Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka’, 15 August 2016:

‘In Sri Lanka, ideas about the way men and women should look and act are deeply entrenched. Those who challenge gender norms—including many lesbian, gay, bisexual, transgender, and intersex (LGBTI) people—may face a range of abuses from ... private individuals that compromise the quality and safety of their daily lives, and their ability to access services that are central to their realizing basic human rights.

‘The abuses experienced by transgender people are part of a broader picture of discrimination faced by gender non-conforming people in Sri Lanka. LGBTI people in general may face stigma and discrimination in housing, employment, and health care, in both the public and private sectors.

‘Social standing plays a significant role in the discrimination that LGBTI people face: those who are poor, who engage in sex work, or who obviously do not adhere to rigid gender norms are most vulnerable to abuse, including physical assault or arrest.’⁹²

- 5.2.5 In July 2016, delegates from a UK Home Office Fact Finding (The 2016 UK FFM) mission to Sri Lanka met with a representative from Equal Ground (EG), a non-profit organisation seeking human and political rights for LGBT community of Sri Lanka who stated: ‘Three quarters, if not more, of the LGBTI communities in Sri Lanka live a double life. They hide their sexual orientation. Quite often they are forced into heterosexual marriages. Some of them actually get into heterosexual marriages because they think that is the right thing to do, so that it hides their sexual orientation. Mostly those are gay men. Lesbian and bisexual women are pretty much forced by families to get married to men against their will.’⁹³

- 5.2.6 A World Political Review article from 2017 noted that ‘Social standing plays a significant role in the discrimination that LGBTI people face: Those who are poor, who engage in sex work, or who obviously do not adhere to rigid gender norms are most vulnerable to abuse.’⁹⁴

- 5.2.7 The Women and Media Collective report ‘Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online’ published in December 2017 noted that:

‘This state of invisibility and isolation is broadly a result of Sri Lankan “conservatism”, in which attitudes towards and discourses on sexuality and sexual relationships are heavily controlled by societal and cultural forces opposed to sexual and gender diversity. Sexual conservatism in Sri Lanka regulates individuals through gender roles based on a rigid, male/female

⁹¹ IPID, ‘[Rapid Situation Assessment of Transgender Persons in Sri Lanka](#)’, (p27), December 2016

⁹² HRW, ‘[All Five Fingers Are Not the Same](#)’ (p. 1 & 4), 15 August 2016

⁹³ UK Home Office’s, ‘[Fact Finding Mission to Sri Lanka](#)’ (p. 51), 11 – 23 July 2016

⁹⁴ WPR, ‘[What’s at Stake for LGBT People as Sri Lanka Reforms Its Constitution](#)’, 1 August 2017

binary construct; sex is restricted by a “logic of reproduction”. Sexuality is restricted to marriage, and those who pursue sexual activity outside the confines of a marriage, especially women, are vilified. Sexual issues are “privatised” to such an extent that discussion in the public sphere is discouraged. Sex education in public schools is virtually non-existent and only exists in a few private schools.⁹⁵

- 5.2.8 The 2019 DFAT report stated that ‘According to local LGBTI sources, homosexual women face added difficulties in being open about their sexuality. Sources told DFAT that being a woman in Sri Lanka, as a patriarchal society, was challenging in itself, and the challenge of being a homosexual woman was greater still.’⁹⁶

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5.3 Societal norms - marriage

- 5.3.1 The IPID, report of December 2016 stated:

‘In Sri Lankan society, heterosexual marriage is the only norm while divorce and separation is discouraged, and family violence as well as partner violence is invisible. Given that this environment actively discourages female independence, especially sexual autonomy and gender difference, and limits women’s access to and exposure in the public sphere. The private space of the family is a primary locus of the control of women, and perhaps the most oppressive institution for them. For Lesbian, Bisexual and Transgender (LBT) persons, these circumstances are compounded by the fact that they have no other forms of support (for e.g. they may not be able to request help from friends and colleagues, and cannot approach religious communities or government institutions such as the police and even women’s sheltering services).’⁹⁷

- 5.3.2 Equal Ground, in its shadow report to the CEDAW Committee, 2016, stated: ‘Sri Lankan law does not protect LGBTI individuals from being forced into heterosexual marriages, and lesbian and bisexual women are often coerced into marriage, and threatened with violence or removal of their property if they refuse.’⁹⁸

- 5.3.3 Rosanna Flamer-Caldera, described in the Daily Mirror (Sri Lanka) in January 2018, that results from a mapping study conducted by Equal Ground showed: ‘Some respondents reported being forced to marry someone of the opposite sex even though they were not physically or emotionally attracted to them. The study reported that 27.2% of the LGB respondents were married. Sexual and physical abuse have also been reported over and over again, especially by lesbian and bisexual women in forced marriages.’⁹⁹

⁹⁵ Women and Media, [‘Report’](#) (pg 20-21), December 2017

⁹⁶ DFAT, [‘Country Report’](#), (3.152), 4 November 2019

⁹⁷ IPID, [‘Rapid Situation Assessment of Transgender Persons in Sri Lanka’](#), December 2016

⁹⁸ OHCHR, [‘Equal Ground – Human Rights Violations Against Lesbian and ...’](#), (p2), 2016

⁹⁹ Daily Mirror (Sri Lanka), [‘Counting in LGBT’](#), 22 January 2018

5.3.4 The 2019 DFAT report noted that ‘Homosexual women are reportedly pressured into heterosexual marriage and face harassment in public, including on public transport.’¹⁰⁰

5.3.5 On 22 April 2021, the Daily FT, a Sri Lanka-based daily business newspaper, reported on some problems associated with marriage traditions and customs for LGBT people in Sri Lanka:

‘Recognising the severe pressure faced by the LGBTQ+ community, such as lesbian, gay, bisexual, transgender, queer and others, Equite Sri Lanka, in collaboration with Men Engage Alliance, has launched a community awareness campaign on forced marriages.

‘Equite Sri Lanka is a non-governmental organisation working for the LGBTIQ community, women and youth in marginalised settings with an aim to achieve equality for all. Men Engage Alliance is a regional alliance which works to prevent gender-based violence through promoting gender equity.

‘Equite Sri Lanka’s recent campaign seeks to emphasise the urgency and need to provide vital legal provisions to address the issue of forced marriages and also to protect the rights of people of different genders living in the country.

‘Commenting on the issue, Equite Sri Lanka Co-Founder Adhil Suraj said, “The problem of underage and forced marriages is common even in the Muslim marriage law, as well as in homosexual and heterosexual communities. We have taken a number of urgent steps for both these issues in order to create awareness among the government and the general public. Our goal is to create a just society that is not discriminated against on the basis of race, religion, gender or orientation.”

‘He further noted that the LGBTIQ + community are also under severe pressure due to the prevailing cultural and customary practices in Sri Lanka. In Sri Lanka, the institution of marriage is placed on a pedestal and regarded as a social norm. However, due to ignorance and the need to follow traditions, individuals’ despite being identified as homosexual or transgender are forced in to marriages by parents and elders resulting in disastrous consequences.’¹⁰¹

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5.4 Pro LGBTI marches/gay pride

5.4.1 According to a 2019 article in Ceylon Today, ‘Pride Month is celebrated in June... Equal Ground works very hard to provide for the needs of the community and each year, giving the LGBTIQ community of Sri Lanka the space to stand up tall and be proud of who and what they are. Pride in Sri Lanka is currently on a small scale... Pride celebrations take place as private, yet very public functions attended by persons from all over Sri Lanka.’¹⁰²

¹⁰⁰ DFAT, ‘[Country Report](#)’, (3.152), 4 November 2019

¹⁰¹ Daily FT, ‘[Equite Sri Lanka champions campaign against forced marriages...](#)’, 22 April 2021

¹⁰² Ceylon Today, ‘[Nothing but Pride](#)’, 26 June 2019

- 5.4.2 The 2019 DFAT report noted that: ‘A Pride parade has been held in Colombo since 2005, albeit in a low-key manner because of security concerns. The Colombo Pride parade was not held in 2019, following the Easter Sunday terrorist attacks, although a festival of other LGBTI events did proceed’¹⁰³. Colombo Pride was held digitally in 2020 and 2021 because of the Covid-19 pandemic¹⁰⁴.
- 5.4.3 Details of Sri Lanka’s annual Pride events can be found on the [Colombo Pride Facebook page](#).

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Section 6 updated: 30 November 2021

6. Societal treatment, violence and discrimination

6.1 Overview

- 6.1.1 Reporting on the use of hate speech and hate campaigns, the Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka, 10 February 2017, stated: ‘Organizations working on LGBT rights have also reported threats and attacks on social media against groups and individuals on the basis of sexual orientation.’¹⁰⁵
- 6.1.2 In 2019 Sinhala musician Iraj Weerarante released a video titled ‘[Mathinta Api UNP](#)’ in which according to an article by the Sunday Morning news website, Weerarante mocks the previous United National Party (UNP) Government and previous President Maithripala Sirisena by dressing in a women’s wig and dress, which according to the report is: ‘meant to be a crude depiction of the LGBTQ community.’¹⁰⁶
- 6.1.3 The 2019 DFAT report noted that:

‘No legislation exists to protect LGBTI individuals from discrimination or hate crimes. According to local sources, LGBTI individuals are widely seen as “sexual deviants” and routinely experience discrimination and bullying in the workplace and the education and health care systems. Local LGBTI sources told DFAT that openly-gay couples face obstacles to securing housing and accommodation. As a result, many homosexual persons seek to conceal their sexual orientation.

‘DFAT considers reports of violence in the home and public spaces to be credible and many LGBTI individuals – especially Muslims – hide their identity to avoid harassment

‘Hate speech against the LGBTI community is common on social media, including against those who advocate for LGBTI rights. In 2016, critics, notably Sinha Le, published threatening comments on social media relating to the 12th Annual Gay Pride Festival and prevented Equal Ground from holding a promotional event at the Good Market in Colombo. Organisers cancelled some public events; police provided protection for participants at others. Authorities “misplaced” paperwork for one public event celebrating

¹⁰³ DFAT, ‘[Country Report](#)’, (3.153), 4 November 2019

¹⁰⁴ The Morning, ‘[Colombo Pride...](#)’ 6 June 2021

¹⁰⁵ UNHRC, ‘[Report](#)’, 10 February 2017

¹⁰⁶ The Sunday Morning, ‘[Campaigning spills over to social media](#)’, 20 October 2019

International Day Against Homophobia and Transphobia (IDAHOT) in 2016 and the event could not proceed.¹⁰⁷

- 6.1.4 Human Rights Council's report on the visit to Sri Lanka of the Special Rapporteur on freedom of religion or belief, published in February 2020, noted that:

'Members of LGBT+ community also reported that religious teaching is a significant factor in the marginalization of the LGBT+ communities and leads to deep personal struggles for those who attempt to reconcile their religious identity with their sexuality. Often, the perspectives of LGBT+ and women are excluded from inter-religious dialogues and processes of reconciliation. Efforts for reconciliation, refracted through ethnic and religious lenses, without considering gendered impacts, are not inclusive.'¹⁰⁸

- 6.1.5 An October 2020 article published by Groundviews by Shihara Maduwage, Media and Communications Officer at Equal Ground, stated:

'the implications of the law, in Sri Lanka's conservative context, go far beyond its legal scope. For instance, in September this year, a transgender individual was denied entry to a popular bar in Colombo simply due to her "appearance". Unfortunately, this is not a one-time occurrence. There are also countless incidences where LGBTIQ individuals are stigmatised, harassed, and discriminated against; actions such as denying entry into establishments and public spaces, misgendering or using incorrect pronouns, hurling derogatory remarks, bullying and verbal abuse, and even physical violence are all too common in Sri Lanka. As a result of these laws, Sri Lanka's LGBTIQ community largely lives in the shadows and instances of violations of their fundamental rights go unreported.'¹⁰⁹

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6.2 Discrimination and violence against LGB persons

- 6.2.1 Outright International, following its study of interviewing 33 LBTs, published its findings in May 2016 and noted that:

'All LBT people interviewed for this study reported experiencing emotional violence.

'The ways that LBT individuals experience the harassment, humiliation, power and control associated with emotional violence were many.

'This violence primarily involved an invasion of privacy (more than three fourths, reported by 26 of the 33 respondents); non-verbal or silent contempt and hostility (more than half, reported by 19 of the respondents); and emotional manipulation (more than half, reported by 18 respondents). More than half, (18 respondents) reported experiencing restrictions on socializing, such as their phone calls and letters being monitored; having "curfews" imposed on them when their sexuality became suspect; being chaperoned when leaving the house; and being confined to the house due to their sexual orientation or gender identity. Approximately one third (13) had been forced

¹⁰⁷ DFAT, '[Country Report](#)', (3.149, 3.151 & 3.154), 4 November 2019

¹⁰⁸ HRC, '[Visit to Sri Lanka; Report of the Special Rapporteur on freedom of...](#)', 28 February 2020

¹⁰⁹ Shihara Maduwage (Groundview), '[Arrests and Harassment of LGBTIQ Persons](#)', 22 October 2020

to end their same-sex relationships, and one third (13) believed that their sexual orientation or gender identity was met with silent hostility or was invisibilized in one way or another (e.g., they were treated as if they were not in the room and/or were spoken about in the third person).

'Interviewees reported facing a high degree of peer teasing that often escalated into verbal harassment and bullying, in addition to intentional emotional abuse from peers, teachers, work colleagues, supervisors, friends and state actors.

'Verbal abuse, a specific means of belittling and demeaning someone through a barrage of insults, derogatory comments and hate speech, was a common experience across all age groups. Perpetrators of verbal abuse ranged from family members to neighbours, other members of the LGBT community, ex-partners, employers and prospective employers.'¹¹⁰

6.2.2 Daily Mirror (Sri Lanka) online reported in 2018 that:

'According to a study conducted by the Equal Ground with responses from 470 individuals who identified as lesbian, gay, bisexual, heterosexual and transgender, the majority of these LGBT persons face stigma and discrimination in government services including education and healthcare.

'Some have also been physically attacked and verbally abused in public because of their sexual orientation and/or gender identity/expression. Stigma is deep-rooted and even though numbers being just a few, some LGBT persons themselves feel that they are mentally ill (8.7%) and/or abnormal (3.3%) because they associate themselves with the LGBT identity. However, even though the law criminalizes consenting sexual relations between members of the same sex in Sri Lanka, no LGBT person believes he or she should be punished by the law because of sexual orientation.'¹¹¹

6.2.3 The February 2019 report by the Office of the United Nations High Commissioner for Human Rights (UNHCHR) provided the following overview covering October 2015 to January 2019: 'The High Commissioner is deeply concerned at the aggravation of intercommunal tensions, in particular at several attacks conducted by militant Buddhist groups targeting cultural, religious (including the Muslim community and evangelical Christians) or sexual minorities [...].'¹¹²

6.2.4 The November 2019 DFAT report noted that:

'According to local sources, the LGBTI community faces threats, harassment and forced heterosexual marriage from family and members of the community. Some middle and upper class, educated, and urban Sri Lankans are open about their sexuality within their family and community circles; however, risks are higher for lesbian and bisexual rural women due to more traditional familial expectations and values. ...

'...Local sources told DFAT that hostility toward LGBTI individuals was 'across the board' and was not confined to a particular ethnic group or geographic area. Colombo (Western Province), Kandy (Central Province)

¹¹⁰ Outright International, '[Violence: Through the lens of LBT people](#)' (pp. 14/15), 6 May 2016

¹¹¹ Daily Mirror online, '[Removing barriers for LGBT + people in Sri Lanka](#)', 6 July 2018

¹¹² UNHCHR, '[Report of the Office of the UN High Commissioner for HR](#)', 8 February 2019

and Galle (Southern Province) are considered more tolerant of sexual orientation relative to other parts of Sri Lanka. Some LGBTI individuals have chosen to relocate to these centres, which have larger LGBTI communities and support networks.

‘According to local LGBTI sources, homosexual women face added difficulties in being open about their sexuality. Sources told DFAT that being a woman in Sri Lanka, as a patriarchal society, was challenging in itself, and the challenge of being a homosexual woman was greater still. Homosexual women are reportedly pressured into heterosexual marriage and face harassment in public, including on public transport.’¹¹³

- 6.2.5 Equal Ground noted in their January 2020 publication ‘My Rights, My Responsibility’ that: ‘Most gay and lesbian individuals face violence and harassment at the hands of their family and spouses. There have been many reports of LGBTIQ individuals – especially lesbians – being coerced to enter into a marriage by their parents, often resulting in them being abused by their spouses.’¹¹⁴
- 6.2.6 Gay Star News reported on 18 May 2020 about research conducted by Kaleidoscope Trust, which drew on LGBT+ organisations across 37 countries. The report noted that: ‘By speaking to 34 LGBT+ charities working in those countries, it found that 85% were worried about their service users’ wellbeing... The report also uses examples from Kiribati and Sri Lanka where LGBT+ people are ‘in lockdown with relatives who discriminate against and stigmatise them’. This is a ‘threat to their mental and physical health’¹¹⁵
- 6.2.7 INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘before and during curfew 1st February 2020 - 30th April 2020’ which recorded that ‘there were hate speech campaigns online targeting LGBTIQ community and at least one LGBTIQ activist and several individual LGBTIQ persons.’¹¹⁶

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6.3 Discrimination and violence against transgender individuals

- 6.3.1 The 2019 DFAT report noted that: ‘Transgender individuals are more likely to experience discrimination. Employers are reluctant to hire transgender individuals, and DFAT heard accounts of transgender individuals being dismissed from their jobs due to their sexual orientation and gender identity.’¹¹⁷
- 6.3.2 According to the 2020 USSD report ‘Transgender persons continued to face societal discrimination... mistreatment, and discrimination accessing employment, housing, and health care.’¹¹⁸

¹¹³ DFAT, ‘[Country Report](#)’ (paras 3.147, 3.151 and 3.156), 4 November 2019

¹¹⁴ Equal Ground, ‘[My Rights, My Responsibility](#)’, 7 January 2020

¹¹⁵ Gay Star News, ‘[Coronavirus causing a humanitarian crisis for people...](#)’, 18 May 2020

¹¹⁶ INFORM, ‘[Repression of Dissent in Sri Lanka: Before and during COVID19...](#)’, 30 May 2020

¹¹⁷ DFAT, ‘[Country Report](#)’, (3.150), 4 November 2019

¹¹⁸ USSD, ‘[2020 Country Report](#)’, (page 29), 11 March 2020

- 6.3.3 According to the Freedom House ‘Freedom in the World Report’ 2021, covering events in 2020, ‘LGBT+ people face societal discrimination, occasional instances of violence.’¹¹⁹
- 6.3.4 An October 2020 article published by Groundviews by Shihara Maduwage, Media and Communications Officer at Equal Ground, stated:
‘the implications of the law, in Sri Lanka’s conservative context, go far beyond its legal scope. For instance, in September this year, a transgender individual was denied entry to a popular bar in Colombo simply due to her “appearance”. Unfortunately, this is not a one-time occurrence.’¹²⁰
- 6.3.5 A recent research project undertaken by the Asia Pacific Transgender Network (APTN) in 2020 and published in March 2021 looked at conversion therapy practices (CTPs) being ‘implemented against trans and gender-diverse people’ in a variety of Asian countries, including Sri Lanka¹²¹. The report noted that ‘A country with a strong socially conservative cultural backdrop, trans and gender diverse citizens face multiple forms of systemic marginalisation and stigmatisation.’¹²²
- 6.3.6 The same report further stated:
‘This research initiative revealed how young trans and gender diverse people are left with lasting traumas caused by CTPs. The risk of high levels of violence from within family circles (especially correctional rape), remains a major concern for trans masculine and trans feminine people alike. CTPs involving astrologers, soothsayers, practitioners of local forms of exorcisms and black magic, as well as practitioners of western medicine also lead to physical injuries, lasting forms of mental trauma, and in some cases, severe side effects due to the administration of electroshocks and medication.’¹²³

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6.4 Discrimination and violence against intersex individuals

- 6.4.1 CPIT was unable in the sources consulted to find information on discrimination and violence of intersex persons in Sri Lanka (see [Bibliography](#)).

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6.5 Conversion therapy

- 6.5.1 Roar media, a services news platform covering South Asia, reported in April 2019 that:
‘Conversion therapy—or programmes designed to “convert” people in the LGBTIQ spectrum—is widely practised in Sri Lanka, by both medical and religious institutions. Since homosexuality is illegal in the country, the practitioners of conversion therapy are allowed to operate freely and without question...

¹¹⁹ Freedom House, ‘[Freedom in the World 2021](#)’, (section F4), 3 March 2021

¹²⁰ Shihara Maduwage (Groundview), [Arrests and Harassment of LGBTIQ Persons](#), 22 October 2020

¹²¹ APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’ (p. 3), 31 March 2021

¹²² APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’ (p. 4), 31 March 2021

¹²³ APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’ (p. 8), 31 March 2021

“Many parents will take their child’s behaviour as an indication of being gay, and seek out advice from professionals on how to ‘undo’ it when their child is still young” said Thushara Manoj, Senior Manager for advocacy at the Family Planning Association. “Usually, before they take their children for treatment, a parent will go to a therapist themselves. The first thing they’re advised to do is cut off their child from social media, from their phones, and to monitor their communications.”

‘According to Manoj, this is especially likely to happen to young boys who behave in an effeminate manner. In some cases, parents perceive their child’s homosexual “behaviours” as externally influenced, and are told to cut off their child’s communication with the friends they believe are responsible. They are also advised to remove posters of anyone of the same sex that the child may have in his or her personal space, and replace them with posters of people of the opposite sex...

‘Many private hospitals also have psychiatrists who administer hypnotic and shock therapies on their patients to “counter” homosexuality...

‘These forms of malpractice are not solely relegated to the field of Western medicine. Many ayurvedic doctors offer their own forms of conversion therapy as well, and are often very open about providing it. Ads are often posted in the newspapers, with claims that they are able to ‘fix’ homosexual tendencies in children.’¹²⁴

6.5.2 A recent research project undertaken by the Asia Pacific Transgender Network (APTN) in 2020 and published in March 2021 also looked at conversion therapy practices (CTPs) being implemented against trans and gender-diverse people in a variety of Asian countries, including Sri Lanka. The research involved 15 interviews and interactions with members of the trans community, including LGBTI community leaders and human rights professionals¹²⁵. Looking at different conversion therapy practices in Sri Lanka, the report noted:

‘CTPs in Sri Lankan society are best understood by taking stock of the backdrop in which they take place—a society with high levels of gender-based violence. Sri Lankan society normalises violence against children and youth, including corporal punishment in schools and family settings. It is in this context of a “culture of impunity” that practices such as CTPs are widely implemented...

‘CTPs conducted in family circles include emotional and physical abuse, and in some cases, correctional rape. The interactions with the interviewees also revealed that in Sri Lankan society, gender identity and expression is often conflated with sexual orientation. A young trans person’s gender identity and expression, for instance, is often regarded as a manifestation of their non-heteronormativity. Irrespective of where one is positioned on the gender spectrum, trans and gender diverse people continue to face major threats of conversion practices.

¹²⁴ Roar Media, [‘Homosexuality Is Wrong!’: The Chilling Reality of Conversion...](#), 11 April 2019

¹²⁵ APTN, [‘Conversion Therapy Practices in Sri Lanka’](#), 31 March 2021

‘CTPs outside family circles often involve faith-based approaches. This research initiative revealed that different religious faiths practised in the island, from Buddhism to the different denominations of Christianity (especially the Catholic Church, Sri Lanka’s most powerful Christian denomination), offer CTPs in multiple forms. Many parents, guardians, and elders resort to astrology, horoscope reading, and a variety of supernatural beliefs when seeking external support to make trans and gender diverse youth conform to the gender assigned to them at birth.’¹²⁶

6.5.3 With regards to the lack of policing of CTPs, the report found:

‘Advocates of CTPs in the medical sector face next to no repercussions because there are no monitoring mechanisms and policy guidelines that discourage and ban conversion therapy. Efforts made by many stakeholders, including the Human Rights Commission of Sri Lanka, to address this gap, have been unsuccessful. The lack of legal safeguards and monitoring mechanisms provide a carte blanche to individuals who use their position as medical professionals to give expression to their own homophobia and transphobia, by engaging in CTPs. Astrologers, purported adepts of supernatural practises like exorcisms, and medics offering CTPs earn a lucrative income out of the high levels of homophobia and transphobia in Sri Lankan society...

‘Despite a public declaration that homosexuality is not a mental illness, the Sri Lanka College of Psychiatrists continues to remain opposed to many aspects of trans rights, including the implementation of a system of gender recognition based on informed consent and self identification. Their hostility remains a key factor that helps strengthen the hands of medics who openly practice CTPs.’¹²⁷

6.5.4 The same report also noted:

‘As a result of the cultural practice of never questioning one’s elders, the interviews helped shed light on the fact that there exists a great deal of reluctance among trans and gender diverse people affected by CTPs to file cases against their perpetrators. The fear of further violence from law enforcement, ill-treatment and systemic discrimination at the hands of the judiciary, and further repercussions and the transphobia that may follow if their stories were to become public, are among the reasons that keep many trans and gender diverse people from making complaints or taking legal action against perpetrators of CTPs.

‘Despite the lack of clear legislation that protects the rights of trans and gender diverse citizens, certain mechanisms, such as lodging complaints at the Sri Lanka Medical Council, remain open to trans and gender diverse people victimised by CTPs. Respondents repeatedly highlighted the clear need for protective legislation that identifies the harmful consequences of conversion practices and bans them. In tandem, strong awareness-raising campaigns and multi-pronged efforts to challenge transphobia, homophobia, and intersexphobia are an absolute priority in Lankan society. Homophobic and transphobic colonial-era laws are still being used to promote conversion

¹²⁶ APTN, [‘Conversion Therapy Practices in Sri Lanka’](#), (page 4-5), 31 March 2021

¹²⁷ APTN, [‘Conversion Therapy Practices in Sri Lanka’](#) (page 6-7), 31 March 2021

practices among both non-het and non-cis citizens by instilling fear in them and by subjecting them to explicit threats of prosecution.

‘Overall, major gaps remain in the legal protections for trans and gender diverse citizens.’¹²⁸

- 6.5.5 CPIT were unable to find any sources which state that conversion therapy is forced on individuals by the state (see [Bibliography](#)).

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Section 7 updated: 30 November 2021

7. Access to services

7.1 Healthcare

- 7.1.1 The IPID report on the Situation of Transgender Persons in Sri Lanka published in December 2016 stated that ‘As the existence of transgendered persons in Sri Lankan society is not taken into consideration in designing healthcare, there is a lack of information on services such as sex reassignment operations by public health providers. In Sri Lanka, health services are provided by public hospitals free of charge or at subsidized rates. However, services on sex reassignment are not made available in these hospitals.’¹²⁹

- 7.1.2 The Women and Media Collective Shadow Report, Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka, presented to the 66th Session of CEDAW 13 February – 3 March 2017, observed:

‘While the basic health needs of LGBT people and the general population are the same, their sexual orientation and gender identity and expression is a barrier to LGBT individuals accessing health related entitlements. LBT women in Sri Lanka continue to face challenges in exercising their basic right of access to health care, including reproductive health and avoid or delay receiving health care or receive inappropriate or inferior care in general and health care settings. The high visibility of LGBT persons in HIV prevention intervention programmes is considered to pose a barrier to recognizing their need for services for general and reproductive health problems as for the general population.’¹³⁰

- 7.1.3 Further adding:

‘Members of the transgender community report complete disregard and lack of concern for protecting the confidential details of their medical histories by State run healthcare facilities. Information has been shared with non-medical hospital personnel such as cleaners and security staff. Some transgender persons report intimidation and harassment by hospital staff. In one case, a doctor sexually harassed a transwoman seeking medical assistance at a government hospital. In another incident a transgender man reported having his genitals examined when he was under sedation for surgery not related to his sexual organs. There are also reports indicating that transwomen who go

¹²⁸ APTN, ‘[Conversion Therapy Practices in Sri Lanka](#)’, (page 7), 31 March 2021

¹²⁹ IPID, ‘[Rapid Situation Assessment of Transgender Persons in Sri Lanka](#)’, December 2016

¹³⁰ Women and Media Collective, ‘[Report](#)’, (p9) 13 February – 03 March 2017

to government healthcare facilities have faced discrimination, such as their cases being delayed and their appointments being pushed to the back of the queue. Transmen (female to male) are often left out of HIV awareness programmes since often only transwomen are categorised as men having sex with men by HIV service providers.¹³¹

7.1.4 Human Rights Watch reported in September 2019 that: ‘Some lesbian, gay, bisexual, and transgender (LGBT) people – particularly those who are visibly gender non-conforming – face ... discrimination in accessing health care, employment, and housing.’¹³²

7.1.5 In the November 2019 report DFAT noted that:

‘Transgender individuals are also more likely to encounter obstacles gaining access to basic services that require identity documents. In 2016, the Ministry of Health established a Gender Recognition Certificate, which allows an individual to change their legal gender and amend government-issued identity documents, including NICs. This is a long and complex process; according to the International Lesbian, Gay, Bisexual, Trans and Intersex Association, one must undergo psychiatric evaluation by a medical professional, receive a diagnosis of “trans-sexualism” based on the International Classification of Disease, and undergo hormone and surgical treatment before being issued a Gender Recognition Certificate. A Gender Recognition Certificate is available only to individuals 18 years or older. Hormone treatment and gender reassignment surgery services are scarce and expensive. Local sources have identified the Kalubowila government hospital near Colombo as a transgender-friendly hospital; it conducted the first sex reassignment surgery in Sri Lanka in 2017.’¹³³

7.1.6 For more information on access to healthcare for LGBTI persons see also the Country Policy and Information Note on [Sri Lanka: Medical treatment and healthcare](#)

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7.2 Documentation

7.2.1 According to Bertelsmann Stiftung however, in its Transformation Index (BTI) 2020 Country Report Sri Lanka, there is little evidence that the procedure to change someone’s gender on their documents is in use¹³⁴.

7.2.2 A European Parliament report on the 2019 Presidential election published in January 2020 noted that:

‘The LGBT community is still stigmatised by criminalisation. The Ministry of health issued a circular in 2016 aimed at enabling transgender persons to change their birth certificate, a document key to obtaining identity and other legal documents. However, the certificate is only available to persons who are commencing medical transition procedures. The formalisation of transgender status through law and procedures for changed ID cards remain

¹³¹ Women and Media Collective, ‘[Report](#)’, (pg10)13 February – 03 March 2017

¹³² HRW, ‘[Country Profiles :Sexual Orientation and Gender Identity, Sri Lanka](#)’, 23 September 2019

¹³³ DFAT, ‘[Country Report](#)’, (3.150), 4 November 2019

¹³⁴ Bertelsmann Stiftung, ‘[BTI 2020 Country Report Sri Lanka](#)’, (p10), 29 April 2020

unclear, thereby creating obstacles to voting rights and protection from discrimination.¹³⁵

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7.3 Employment

- 7.3.1 A 2014 report by Kaleidoscope, noted: ‘Discrimination, among other things, limits access to employment, housing and health services. There have been reports of LGBTI individuals being fired from jobs, refused accommodation or forced to leave, because of their real or perceived sexual orientation or gender identity.’¹³⁶
- 7.3.2 At an European Union sponsored business roundtable on the ‘challenges and benefits of the diversity in the workplace’ at the Taj Samudra on 14 June 2017, with Equal Ground spearheading the event, the EU Delegation in Colombo, said that: “Evidence was provided to establish the existence of discrimination of employees on the basis of sexual orientation and gender identity, and, the economic costs, such as lower productivity, increased-employee absenteeism and employee turnover to underscore the importance of an open and accepting corporate culture.”¹³⁷
- 7.3.3 Amnesty International noted in a report dated 7 December 2019, discussing the release of a comic book detailing the experiences of four LGBTI people, that: ‘Societal taboo has been punishing for LGBTI individuals when it comes to their jobs, homes and schools – compromising their ability to access services that are central to realizing their human rights.’¹³⁸
- 7.3.4 Equal Ground noted in their January 2020 publication ‘My Rights, My Responsibility’ that: ‘Prejudices and discrimination based on sexual orientation or gender identity and/or expression often lead to individuals of the LGBTIQ community failing to find suitable employment or remain unemployed due to harassment at workplaces.’¹³⁹
- 7.3.5 A study conducted for Equal Ground with 193 LGBTIQ employees found that ‘though the majority of the respondents completed tertiary level education (undergraduate-31%, postgraduate-24%), most of them are not employed at higher than entry level jobs. When the respondents were asked if they are ‘out’ at their workplaces, 42% responded in the negative. This is also because half of the respondents (50%) believed that if they reveal their Sexual Orientation and/or Gender Identity/Expression (SOGIE) at the workplace, they might face more stigma and discrimination.’¹⁴⁰
- 7.3.6 The same study further found:
‘The respondents were subsequently asked if they have a supportive and non-discriminative work environment. To this, 38% of the respondents gave a negative response. With regard to employment opportunities and benefits, 16% said they experienced discrimination during job interviews, 10% said

¹³⁵ European Parliament, [‘Final Report Presidential election- 16 November 2019’](#), January 2020

¹³⁶ Kaleidoscope, [‘Report’](#) (p. 4), September 2014

¹³⁷ The Island, [‘SL urged to repeal laws against lesbians...’](#), 15 June 2017

¹³⁸ Amnesty International, [‘Sri Lanka: End discrimination against LGBTI people’](#), 7 December 2019

¹³⁹ Equal Ground, [‘My Rights, My Responsibility’](#), 7 January 2020

¹⁴⁰ Equal Ground, [‘A study on workplace discrimination...employers in Sri Lanka’](#) (page 11), 2021

they have been denied employment benefits (i.e. salary increments, promotions, transfers etc.), and 3% confirmed that they were terminated from jobs due to their SOGIE. It should be noted here that the percentages of such discriminatory behavior are low because most of the respondents did not reveal their SOGIE to anyone at the workplace.

‘Moreover, when respondents were asked if they can complain to the management about such rights violation incidents at the workplace, 56% said they cannot because they fear facing more reprisals. Respondents were further asked if they ever encountered any type of harassment at their workplaces. 58% stated that they have experienced verbal harassment, which included name calling, making derogatory remarks, spreading rumors, asking inappropriate personal questions etc.; 31% said they have experienced sexual harassment, which included verbal and non-verbal invitations to have sex, sending messages with sexual contents, comments about body/clothing/behavior etc. When respondents were asked if they can complain to the management about such harassment incidents, 44% said they cannot because they fear facing more reprisals. This indicates that even if LGBTIQ employees experienced verbal and/or sexual harassment at their workplace, they chose to remain silent because of the fear facing increased discrimination and/or stigmatisation. Consequently, 23% of the respondents also mentioned leaving their jobs due to psychological and emotional harassment....

‘The survey findings also revealed that the majority (53%) of the employers are aware of national laws that discriminate LGBTIQ people and confirmed that to some extent these laws have impact on the workplaces as well. Accordingly, 11% suggested that national legal system should be reformed so that organisations can take bold steps to eliminate workplace discrimination for LGBTIQ people. 35% also believed that strong organisational policies should be developed to end workplace discrimination.

‘When comparing the employee and employer surveys, it revealed that challenges cited by LGBTIQ employees have also been affirmed by the employers. Moreover, while the majority of the employees mentioned that they cannot report to the management in case of rights violation or harassment incidents at the workplace, the employer survey unraveled the reason of this phenomenon. As there is no specific policy for LGBTIQ employees, there is higher chances of being more discriminated, which prevents the LGBTIQ employees from reporting such incidents.’¹⁴¹

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Section 8 updated: 30 November 2021

¹⁴¹ Equal Ground, ‘[A study on workplace discrimination: Challenges faced by LGBTIQ employees and the perspectives of employers in Sri Lanka](#)’ (page 12), 2021

8. LGBT groups, civil society and human rights NGO's

8.1 LGBTI community and activists

- 8.1.1 The Women's Support Group (WSG), a Colombo-based non- governmental organization (NGO) provided support for lesbians, bisexual women and transgender people¹⁴².
- 8.1.2 Equal Ground, founded in 2004, are an organisation based in Sri Lanka who fight for the equal rights for the LGBTIQ community. Information on their work can be found on their website <https://www.equal-ground.org/>.
- 8.1.3 Reporting on the use of hate speech and hate campaigns, the Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka, 10 February 2017, stated: 'Organizations working on LGBT rights have also reported threats and attacks on social media against groups and individuals on the basis of sexual orientation.'¹⁴³
- 8.1.4 The DFAT report noted in November 2019 that 'The LGBTI activist community is small but increasingly assertive; in November 2018, members held a press conference to protest remarks perceived as derogatory toward LGBTI individuals made by President Sirisena during a government rally in Colombo.'¹⁴⁴

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8.2 Government recognition and restrictions

- 8.2.1 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated:

'Equal Ground, as an organization working for the LGBTIQ community, has faced discrimination when seeking approval for events from public authorities and the police. For instance, Police permission to hold a public vigil in commemoration of the victims of homophobia, biphobia and transphobia for the International Day Against Homophobia, Biphobia and Transphobia (IDAHOT) in 2016, was withheld with no explanation for such actions. Attempts to sensitize the Police on a national level have been refused, on the grounds of LGBTIQ issues being a 'non-issue' to the Sri Lanka Police.

'It is interesting to note also that any attempts made by EQUAL GROUND to engage with government authorities are either ignored, or are responded to by the authorities only via indirect, informal avenues of communication, even in instances where other civil society organizations are acknowledged or contacted directly. This highlights a "non-recognition issue" whereby the LGBTIQ community is not recognized as a minority with legitimate problems in Sri Lanka, resulting in the community being excluded from policy consultations. This, in turn, leads to discrimination and exclusion from the enjoyment of economic and social rights enjoyed by other citizens.'¹⁴⁵

¹⁴² The International Gay and Lesbian Human Rights Commission, '[Report](#)', 2014

¹⁴³ UNHRC, '[Report](#)', 10 February 2017

¹⁴⁴ DFAT, '[Country Report](#)', (3.153), 4 November 2019

¹⁴⁵ Equal Ground, '[Report](#)' (p. 8), May 2017

8.3 LGBTI 'community and society'

- 8.3.1 The Women and Media Collective report 'Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online' published in December 2017 noted that:

'Meeting each other has always been difficult for Sri Lankan LGBTQ people, and continues to be so even today. Rampant stigma and discrimination, and the associated fears of exposure, exclusion, and harm, deter many LGBTQ Sri Lankans from publicly seeking out the company and friendship of others who think and feel like them. The lack of tolerant, safe spaces to meet and socialise with each other exacerbates this issue; public spaces are heavily policed for "decency" in Sri Lanka, even for heterosexual couples, but unlike for them, people perceived to be "homosexual" face the possibility of arrest, or at least extortion under threat of arrest. Such prohibitive realities force many LGBTQ people to navigate public spaces with extreme care, exerting an adverse effect on their willingness and ability to seek out friendships and relationships with other members of the LGBTQ community.'¹⁴⁶

- 8.3.2 In an interview with Nomadic Boys, a gay travel blog, an author based in Colombo stated in June 2020 that 'Whilst there are no official gay bars or clubs in Sri Lanka, unofficial underground events take place from time to time.'¹⁴⁷

8.4 LGBTI websites and online access

- 8.4.1 The study by Women and Media Collective, published in December 2017, found:

'[A] number of unofficial yet Sri Lanka-specific sources of information, such as (for example) the Sakhi Collaboration, "Accept – Sri Lanka", and Equal Ground, are available online. While Sakhi and Accept operate on Facebook, Equal Ground maintains its own website in addition to its social media presence. Sakhi operates through a personal profile on Facebook, sharing informative posters on LGBTQ issues, circulating local and international news on the topic, critiquing mainstream media handling of LGBTQ-related news, as well as creating informational content, such as a condom-use demonstration through photos offered in all three languages. Unlike Sakhi, Accept operates through a "page", allowing any Facebook user to view its content without sharing their own profiles' content with the platform. Its main project seems to be an outreach campaign, featuring LGBTQ supportive quotes from well-known Sri Lankan personalities, such as actors, novelists and human rights activists. The page also features "memes" incorporating Sri Lankan current affairs, designed in a manner to promote LGBTQ rights and to challenge established notions of "cultural" values in the country. The page also circulates local and international news postings. Unlike Sakhi and Accept, which are both operated by voluntary "admins" working in their personal capacities, Equal Ground's platforms are run by a non-

¹⁴⁶ Women and Media, '[Report](#)' (pg 46), December 2017

¹⁴⁷ Nomadic Boys, '[Gay life in Sri Lanka: interview with local boy Kaluu from...](#)', 1 June 2020

governmental organisation by the same name, featuring a number of research publications, periodicals, and advocacy materials, most of it being available in all three languages. A key limitation of the website is that most documents may only be opened through a third-party platform (www.issuu.com), on which both navigation and downloading of documents are significantly restricted.¹⁴⁸

8.4.2 Further noting: ‘Self-censorship extends to the creation and use of anonymous profiles. An important phenomenon among LGBTQ Sri Lankans is the widespread use of anonymous and pseudonymous profiles to navigate stigma and discrimination on social media.’¹⁴⁹

8.4.3 Adding:

‘In Sri Lanka, and within the LGBTQ community, social media platforms such as Facebook loom large. The ability to share content and socialise online, the ability to carry on private conversations away from the wider online community, the ease with which new connections can be made, and the considerably large network of anonymous LGBTQ profiles that exist on Facebook, mean that such social media platforms provide a convenient and (mostly) safe alternative to the risks of socialising and seeking partners in the physical world, which is remarkably hostile to sexuality and gender minorities.

‘In addition to social media platforms, however, applications specifically designed for “dating” and “hooking up” have also emerged, combining geo-positioning technology with photo-sharing and instant messaging technologies, allowing individuals to meet each other based on a combination of their preferences and their physical proximity to each other. While most such platforms exist for people of all sexual orientations and gender identities, platforms specifically targeting LGBTQ people also exist. These platforms, especially in a context where LGBTQ Sri Lankans do not have access to public spaces in the physical world as social and sexual beings, have proved to be useful in multiple ways.’¹⁵⁰

8.4.4 An online article published by Kajal magazine in March 2018, reported: ‘Private Facebook groups are key sites for safe discussion and organising. Vocal LGBTQ activists reported that they are regularly contacted via social media for information, such as for details of gay friendly health clinics or local meet ups.’¹⁵¹

8.4.5 Commenting on a 2018 study into internet use, ‘Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online’, produced by Sri Lanka’s Women and Media Collective as part of a project by the EROTICS South Asia Network, Kajal, noted:

‘Many Sri Lankan LGBTQ individuals self-censor. 25 percent of respondents have more than one internet profile for reasons related to sexual orientation or gender identity. “Fake” profiles used to meet lovers online without revealing identifying details were common, as were “fake” profiles

¹⁴⁸ Women and Media, [‘Report’](#) (pg 36), December 2017

¹⁴⁹ Women and Media, [‘Report’](#) (pg 42), December 2017

¹⁵⁰ Women and Media, [‘Report’](#) (pg 48-49), December 2017

¹⁵¹ Kajal, [‘New Study Recommends How to Keep LGBTQ Sri Lankans Safe...’](#), 1 March 2018

with staged heterosexual content for the benefit of colleagues and conservative family members...

'Worryingly, Sri Lanka's state surveillance laws, which allow the government to demand private information from Internet Service Providers (ISPs), are unclear and difficult to access. Respondents showed a low level of understanding around internet security and safety, highlighting the need for community education initiatives.'¹⁵²

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¹⁵² Kajal, '[New Study Recommends How to Keep LGBTQ Sri Lankans Safe...](#)', 1 March 2018

Annex A

Letter dated 27 August 2018 from the British High Commission in Colombo regarding the situation for lesbian, gay, bisexual, transgender and intersex persons in Sri Lanka.



British
High Commission
Colombo

27 August 2018

Country Policy and Information Team
Home Office



Migration
389, Bauddhaloka Mawatha
Colombo

Sri Lanka



Dear Colleagues,

Re: Lesbian, gay, bisexual, transgender and intersex persons (LGBTI) in Sri Lanka

1. This letter is to provide an update on the subject of LGBTI further to the Country Policy and Information note dated July 2017.
2. In 2017 Equal Ground (EG) published their study 'Mapping LGBT in Colombo, Kandy, Matara, Nuwara Eliya' which accompanies this letter. EG have suffered harassment for organising events that promote the rights of and are attended by LGBT people in Sri Lanka in the past. This has caused concerns about safety, but has mostly been in the form of online threats as opposed to direct confrontation.
3. There remains significant social exclusion for being LGBT which is perpetuated by stigma, cultural taboos and conservative, traditional and religious attitudes. The media has also been known to publish articles which are factually inaccurate and insensitive to LGBT people, fuelling negative public perceptions.
4. However, there are some improvements. Individuals are now able to have their change of gender recognised. A Gender Recognition Certificate (GRC) can be applied for which then enables the issuance

of a new passport and National Identity Card. The British High Commission, Colombo, met someone who has gone through this process and who advised that it was handled in a relatively short period of time. The only drawback is that the new passport carries an 'endorsement' that states that the bearer is a transgender person whose previous passport was issued under such name and such gender marker.

5. Further to criticism by the United Nations in November 2017 in their Universal Periodic Review concerning the criminalisation of homosexuality, the Government of Sri Lanka responded by announcing homosexuality will now be decriminalized:

"The government is committed to ensuring that no provision in the law would be applied to persons of the LGBTIQ community in a discriminatory manner, " said Nerin Pulle, Sri Lanka's Deputy Solicitor General. "Despite social, political and cultural challenges that remain with respect to reforming law, Sri Lanka remains committed to law reform and guaranteeing non-discrimination on the grounds of sexual orientation and gender identity. "

6. As reported in the Foreign Office travel advice, same-sex relations are illegal but the FCO is not aware of any prosecutions. There have been no reports of those identifying as LGBT having their homes/hotel rooms raided by police.
7. Negombo and Mount Lavinia are popular towns for LGBT persons to meet socially. In particular, the community meet at Equal Ground office, and some privately owned places. The addresses of these places are not publicly available because of the security reasons. Beside these places, there are no Gay/Lesbian clubs or community centers in Sri Lanka for the LGBT community to meet.

Should you have any questions please feel free to contact us.

Yours faithfully,

XXXXXXXXXXXXXXXXXXXXXXXXXX

British High Commission Colombo

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Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Legal context
 - Statutory laws
 - Transgender persons
- State attitudes and treatment
 - Implementation and enforcement of the law
 - Arrests and detention
 - Official discrimination and harassment
 - Official response of anti-LGBT violence
 - Official views on sexual orientation and gender
- Societal norms
 - Overview
 - Societal norms- gender and sexual identity
 - Societal norms- marriage
 - Pro LGBT marches/gay pride
- Societal treatment, violence and discrimination
 - Overview
 - Discrimination and violence against lgb persons
 - Discrimination and violence against transgender persons
- Access to services
 - Overview
 - Healthcare
 - Employment
- LGBT groups, civil society and human rights NGO's
 - LGBT community and activists
 - Government recognition and restrictions

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Version control

Clearance

Below is information on when this note was cleared:

- version **5.0**
- valid from **30 November 2021**

Official – sensitive: Start of section

The information in this section has been removed as it is restricted for internal Home Office use.

Official – sensitive: End of section

Changes from last version of this note

Updated country information following review by the IAGCI.

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