



Home Office

Country Policy and Information Note Sudan: Sexual Orientation and Gender Identity / Expression

Version 1.0

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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: 25 May 2022

1. Introduction

1.1 Basis of claim

- 1.1.1 Fear of persecution or serious harm by state and/or non-state actors due to 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 for gay men, lesbians, bisexuals, trans and intersex (LGBTI) persons, as well as those perceived as such. They are referred to collectively as 'LGBTI persons', although the experiences of each group may differ.
- 1.2.2 Most sources refer to LGBTI (or LGBTQ) collectively or to the experiences of gay men in particular. There is limited information about the experiences of lesbian and bisexual women, and trans persons, and no information about intersex persons.
- 1.2.3 For general guidance on considering claims made by LGBTI persons, decision makers should refer to the Asylum Instructions, including where a person does not openly express their sexual orientation or gender identity and the reasons for this, [Sexual orientation in asylum claims](#) 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](#).
- 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](#)).
- 2.1.4 For guidance on interviewing and assessing the credibility of an individual claiming to be a LGBTI person, see the Asylum Instructions on [Conducting asylum interviews](#), Guidance on sexual identity issues in asylum claims and the [Gender identity issues in the asylum claim](#).

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2.2 Exclusion

- 2.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).
- 2.2.3 For guidance on exclusion and restricted leave, see the Asylum Instruction on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and the instruction on [Restricted Leave](#).

Official – sensitive: Start of section

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

Official – sensitive: End of section

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2.3 Convention reason(s)

- 2.3.1 Actual or imputed membership of a particular social group (PSG).
- 2.3.2 LGBTI persons form a PSG in Sudan 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 identity or conscience that a person should not be forced to renounce it and have a distinct identity in Sudan because the group is perceived as being different by the surrounding society.
- 2.3.3 Although LGBTI persons in Sudan 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.
- 2.3.4 For further guidance on Convention reasons see the instruction on [Assessing Credibility and Refugee Status, Sexual orientation in asylum claims](#) and [Gender identity issues in the asylum claim](#).

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2.4 Risk

- 2.4.1 In general, LGBTI people face treatment by state and/or non-state actors that is sufficiently serious by its nature and repetition, or as a result of accumulation of various measures, to amount to persecution or serious harm. However, each case must be considered on its individual facts.
- 2.4.2 Sudan is a predominately Muslim, conservative society with defined gender roles for men and women, and laws informed by Islamic jurisprudence (Sharia) in which 'homosexuality' is haram (forbidden) (see [Demography and gender](#), and [Legal context](#)).

- 2.4.3 Women and girls generally, including lesbian and bisexual women, are discriminated in law and practice, and are likely to be more vulnerable to gender-based violence than men (see [Gender: status and treatment of women generally](#)).
- 2.4.4 There is no information about publicly stated views of the government or officials about LGBTI persons in the sources consulted. The Australian Department of Foreign Affairs and Trade (DFAT) and the Foreign, Commonwealth, Development Office (FCDO) noted that there was significant official stigma to and discrimination of LGBTI persons (see [State attitudes and treatment](#), and [Treatment by both state and non-state actors](#)).
- 2.4.5 Same-sex sexual acts between men are illegal, punishable under Article 148 of the Criminal Law Act 1991 (amended 2020) with up to life imprisonment. However, same-sex sexual acts between women are not mentioned in the law. Nor does the law refer to trans persons or gender recognition. The LGBTI non-government organisation, Badayaa, stated that intersex persons are legally protected but did not identify the specific Act or legal instrument (see [Other laws that may be applicable to LGBTI persons](#)).
- 2.4.6 However, all LGBTI persons may be at risk of sanction under Article 151 of the Criminal Law Act 1991 - which punishes acts of 'gross indecency' - with imprisonment of upto one year or a fine and Article 152 of the same Act - which sanctions acts of a sexual nature that cause 'discomfort to public sentiment or public modesty' - with upto 6 months imprisonment and/or a fine (see [Other laws that may be applicable to LGBTI persons](#)).
- 2.4.7 Prosecutions directly under anti-LGBT laws are infrequent. The International Lesbian and Gay Association (ILGA) considered that cases of criminal enforcement are only rarely reported. In the sources consulted there was only one documented case of 2 men being sentenced by a court to 40 lashes and a fine for sodomy and indecent acts (see [Treatment by unidentified actors](#) and [Arrests, harassment and other violations](#)).
- 2.4.8 Three sources – Sato/Alexander, the Shadow NGO report as part of the UN universal periodic review process, and Badayaa - stated that LGBTI persons are arrested by the state security forces and ill-treated, including raped and beaten. Although there were 3 examples provided of gay men being detained and then released, specific information on the number and frequency of such acts is limited. Most of the sources consulted provided material based on events prior to the October 2021 coup by the military. There is no information since then at the time of writing to indicate whether there has been a change in approach by the government (see [Treatment by unidentified actors](#) and [Arrests, harassment and other violations](#)).
- 2.4.9 DFAT, FCDO and the US State Department observed that there was significant societal intolerance of LGBTI persons. In public surveys undertaken in 2018 and 2019, 14% and 17% respectively of respondents stated they would like or wouldn't care if they had a 'homosexual' neighbour (the term 'homosexual' was used as a proxy for LGBTI people generally) (see [Public opinion](#), [Treatment by societal actors](#)).
- 2.4.10 Freedom House and Sato/Alexander refer to LGBTI people being discriminated against. Sato/Alexander also reported that LGBTI people were

harassed and killed by societal actors, and subject to online harassment. However, Sato/Alexander rely on anonymous Sudanese sources, and there is limited detail on the scale or frequency of such acts ([Treatment by both state and non state actors](#)).

- 2.4.11 Bedayaa based on a survey in 2020 found that around third to half of LGBTI people surveyed faced difficulties in accessing healthcare and discrimination in the workplace. No other sources specifically comment (see [Access to public services and employment](#)).
- 2.4.12 ILGA considered it unlikely that an organisation advocating/supporting LGBTI rights would be allowed to register with the government. However, there are at least 3 non-government organisations working to assist to LGBTI people in Sudan. It is unclear if they have registered with the government or have a physical presence in the country with their operations largely undertaken online (see [LGBTI groups](#)).
- 2.4.13 There appears to be a nascent LGBTI movement, active largely through social media but which faces state, social and religious resistance. Sources do not indicate that there are LGBTI safe public spaces, for instance, community areas, cafes or clubs. The ‘Sudanese LGBTI activist’ and the journalist Ola Diab do refer to the lived experiences of LGBT people in Sudan, which appear to be conducted discreetly (see [Treatment by both state and non-state actors](#), [Societal attitudes and treatment](#) and [LGBTI groups](#)).
- 2.4.14 For further guidance on assessing risk, see the instruction on [Assessing Credibility and Refugee Status](#).

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2.5 Protection

- 2.5.1 In general, the state may be able but is not willing to protect LGBTI persons. However, each case must be considered on its facts.
- 2.5.2 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.
- 2.5.3 Sudan has taken reasonable steps to establish a criminal justice system - comprised of a legal framework to protect basic rights, a security apparatus to enforce the law, and functioning judiciary to judge and sentence persons who break the law – which can detect, prosecute and punish acts of persecution or serious harm (see [State protection](#)).
- 2.5.4 There is no information to indicate that the security forces have provided protection to LGBTI from societal actors or rogue state actors. LGBTI persons are likely face barriers in accessing assistance from the state (see [State protection](#)).
- 2.5.5 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 fears persecution at the hands of the state, they will not be able to relocate to escape that risk.
- 2.6.2 Where a LGBTI person fears persecution from a non-state actor, internal relocation is unlikely to be reasonable as anti-LGBTI attitudes (and discriminatory treatment) are pervasive throughout the country (see [Societal attitudes and treatment](#), and [Treatment by unidentified actors](#)).
- 2.6.3 For further guidance on internal relocation see the instruction on [Assessing Credibility and Refugee Status](#) and [Gender 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: 22 April 2022

3. Political context

3.1.1 This note relies predominately on sources covering events over the last 3 years since the ousting of President Al Bashir in April 2019 and the formation of the civilian-led transitional government in August 2019.

3.1.2 However, on 25 October 2021, the military staged a coup, detaining the prime minister, Abdalla Hamdok, a number of civilian ministers, officials and political leaders and activists, and declared a state of emergency. The leader of the armed forces, Lieutenant General Abdel Fattah Al-Burhan, claimed the ‘... actions were intended to pre-empt civil strife and put the paralysed transition process on the right track by overseeing the establishment of the necessary institutions and the appointment of a representative Government.’¹

3.1.3 On 21 November 2021, the prime minister and the military reached an agreement, which reinstated Hamdok and ‘reaffirm[ed] the principle of partnership between civilians and the armed forces that underlies the power-sharing pact of 2019.’² However, six weeks later, on 2 January 2022, Hamdok announced his resignation³.

3.1.4 In response to the coup, ‘... large crowds gathered across Sudan to protest against the military coup, and a campaign of civil disobedience was launched.’⁴ The military responded to these and subsequent demonstrations with an ‘unnecessary and disproportionate use of force including the use of live ammunition – against peaceful protesters.’ As a result, ‘... peaceful protesters [are] killed or injured on a near-daily basis by [the] security forces’. There has also been ‘a clampdown on critics of the authorities and on independent journalists.’⁵

3.1.5 The Economist summarised the general political and economic situation as of early April 2022:

‘Few Sudanese can remember a time when their country was in such a bleak state. The currency is in free fall, having plunged by more than a quarter since October [2021]. Inflation is officially 260%, but probably even higher. Some 9m people (out of a population of about 44m) face “acute hunger”... Khartoum, the capital, is rocked by daily anti-regime protests and the often-violent response of the security forces, who have killed about 90 people over the past five months... Blame this mess on a military coup led by General Abdel Fattah al-Burhan in October [2021], which reversed Sudan’s fragile transition to democracy...

‘When [the] Sudanese rose up three years ago to topple their genocidal dictator [former president Al-Bashir], they hoped to build democracy and

¹ UNSG, ‘[Situation in the Sudan...](#)’ (paragraph 2), 3 December 2021

² The Economist, ‘[The army tightens its grip on Sudan’s political transition](#)’, 27 November 2021

³ Radio Dabanga, ‘[Sudan PM Abdallah Hamdok resigns amid unrelenting...](#)’, 2 January 2022

⁴ UNSG, ‘[Situation in the Sudan...](#)’ (paragraph 5), 3 December 2021

⁵ OHCHR, ‘[Press briefing notes on Sudan](#)’, 18 January 2022

prosperity. Instead, after two coups they face a political crisis, a shrinking economy and a rise in violence. These threaten the “very existence” of Sudan, said Volker Perthes, the UN’s special representative to the Horn of Africa. “Unless the current trajectory is corrected,” he told the UN Security Council last month, “the country will head towards an economic and security collapse, and significant humanitarian suffering.”⁶

- 3.1.6 At the time of writing, the military remains in control of the government, most if not all civilians have been removed or left the government, while protests against the takeover continue.

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Section 4 updated: 22 April 2022

4. Demography and gender

4.1 Population profile

- 4.1.1 Sudan’s population is estimated to be around 44 million⁷, which is largely rural - just over a third (around 15 million) living in urban areas with Greater Khartoum⁸ dominating with between 5⁹ to 10 million people¹⁰. Over 90% of the population are reckoned to be Muslim, mainly different Sunni traditions ‘particularly among the [Sufi orders](#)¹¹, mostly young - almost two-thirds are under 30¹² - and ethnically and culturally diverse¹³.

- 4.1.2 There is no data in the sources consulted on the size of the LGBTI population (see [Bibliography](#)).

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4.2 Gender: status and treatment of women generally

- 4.2.1 There is limited material in the sources consulted about the treatment of lesbian or bisexual women (see [Bibliography](#)). Given this, contextual information about the situation of women and girls generally may be relevant to understanding the experience of lesbian and bisexual women.

- 4.2.2 Prior to the fall of President Al Bashir there were laws to guarantee equal rights of men and women¹⁴. The transitional government, which followed the ousting of Al Bashir regime, in its constitutional document of August 2019, committed to providing assurances to guarantee and promote women’s rights¹⁵. The transitional government also introduced [a number of legal reforms in 2020](#) which improved women’s rights including:

- repealing the [public order laws](#) - ‘used to restrict dress, personal association, income options for women’¹⁶

⁶ The Economist, ‘[Sudan faces collapse three years after the fall of its dictator](#)’, 9 April 2022

⁷ World Bank, ‘[Data](#)’ (Population, total – Sudan), no date

⁸ Comprising of the ‘Three Towns’: Khartoum, North Khartoum and Omdurman

⁹ UN Data, ‘[Sudan](#)’, no date

¹⁰ UK Home Office, [Report of a fact finding mission](#) (page 13), November 2018

¹¹ USSD, [IRF report 2020](#) (Section 1: Religious Demography), May 2021

¹² Sikainga et al in Encyclopedia Britannica, ‘[Sudan](#)’ (Demographic trends), 7 December 2021

¹³ Sikainga et al in Encyclopedia Britannica, ‘[Sudan](#)’ (Cultural life), 7 December 2021

¹⁴ DFAT, ‘[Country Information Report – Sudan](#)’ (paragraph 3.61), April 2016

¹⁵ UN HRC, ‘[Compilation on the Sudan](#)’ (paragraph 46), 26 August 2021

¹⁶ IRBC, ‘[Sudan: Situation and treatment of single women in Sudan...](#)’, 8 December 2020

- outlawing female genital mutilation¹⁷
- removing flogging and the wording ‘wears an indecent or immoral dress’ from the ‘public decency law’¹⁸
- ‘abolished... [the] rule that had required women to obtain permission from a male guardian to travel abroad with children’¹⁹

4.2.3 However, Sudan is one of only of 3 countries not yet to have signed and ratified the UN Convention on the Elimination of All Discrimination against Women²⁰, although it took steps to accede to the Convention during 2021²¹. Moreover as the US State Department’s report on human rights in 2021 (USSD report 2021) noted ‘The law, including many traditional legal practices and certain provisions of Islamic jurisprudence, continued to discriminate against women.’²² The Immigration and Refugee Board of Canada (IRBC) expanded on this, noting in a December 2020 response, citing various sources, that criminal laws regulating ‘public morality’ remained in place which some women’s rights activists considered worse than the public order laws²³. While Freedom House in its report on events in 2021 similarly observed ‘... women continued to face disadvantages in many areas of the law, and perpetrators of widespread crimes against women—including during armed conflicts—have generally enjoyed impunity.’²⁴

4.2.4 Data about the prevalence of gender-based violence (GBV) is ‘scarce’²⁵ and there are no reliable statistics on incidence²⁶ but it is likely to be ‘hugely underreported’²⁷. Freedom House in its report on events in 2020 stated that sexual violence was a ‘major problem’²⁸. A UN Population Fund / Government of Sudan study of GBV between August and November 2020 was conducted in 60 locations and involved 236 focus group discussions and 2,004 respondents (composed of men, women, boys and girls as well as GBV experts)²⁹, observed, amongst other things, in its summary of findings:

- ‘Domestic violence is reported to be very common, especially physical violence by brothers against sisters, and by husbands against wives in the home.
- ‘Women and girl’s movement is severely restricted. They must seek permission from the household head any time they want to leave the

¹⁷ USSD, [Human rights report 2020](#) (Executive summary), 30 March 2021

¹⁸ UNHRC, [‘Summary of Stakeholders’ submissions on Sudan’](#) (parageaph 76), 13 August 2021

¹⁹ FH, [‘Freedom in the World 2022’](#) (Sudan), February 2022

²⁰ UN OHCHR, [‘Status of Ratification Interaxctive Dashboard’](#), no date

²¹ UNHRC, [‘Report of the Office of the United Nations...’](#) (paragraph 21), 27 July 2021

²² USSD, [Human rights report 2021](#) (section 6), 12 April 2022

²³ IRBC, [‘Sudan: Situation and treatment of single women in Sudan...’](#), 8 December 2020

²⁴ FH, [‘Freedom in the World 2022’](#) (Sudan), February 2022

²⁵ UNPFA/GofS, [‘Voices from Sudan 2020...’](#) (page 4), 18 July 2021

²⁶ USSD, [Human rights report 2021](#) (section 6), 12 April 2022

²⁷ UNHRC, [‘Compilation on the Sudan’](#) (paragraph 47), 26 August 2021

²⁸ FH, [‘Freedom in the World 2022’](#) (Sudan), February 2022

²⁹ The UNPFA/GoS survey methodology is explained on pages 9 and 10 of the report, including limitations in the evidence gathering process. The sample has a bias towards localities with higher numbers of ‘Persons in Need’ and may not be a representative sample of all socio-economic groups or variation by geography.

house. Women with no guardian (at puberty, widowers, divorcees) are particularly restricted.

- 'Attitudes towards domestic violence do not consider it a severe violation of women's rights.
- 'Sexual violence is reported to be common. Women working in low pay informal jobs (tea sellers, women working in markets), women in camp setting (IDPs, refugees) who fetch water or firewood, domestic workers, people with disabilities especially mental, are reported to be particularly vulnerable to sexual violence...
- 'Survivors and their families are blamed for the violence. They are very vulnerable to repeated violence particularly forced marriage, sexual and verbal abuse.
- 'Sexual violence goes unreported unless it results in pregnancy.
- '... Verbal and psychological pressure for compliance with existing gender norms and roles is widespread. Gossip is often cited as harmful...
- 'Forced marriage and particularly child marriage, is widespread... Key reasons cited as cause of child marriage are economic, such as the cost of maintaining a daughter, fear of pregnancy out of wedlock, and fear of un-marriageability later in life.
- '... Denial of education is common where most girls are taken out of school at puberty. This is tightly linked to child marriage.
- 'Women's access to resources is severely restricted, with financial resources being controlled by men (whether earned by men or women).'³⁰

4.2.5 The UNPFA/GoS report also noted that 'Women and girls cope with violence by wearing conservative clothing and restricting their movement. Most violence goes unreported. Domestic violence and that by members of the community is often under-reported, violence by outsiders is more often reported.'³¹

4.2.6 The IRBC response of December 2020 on the situation for single women, citing various sources, noted:

'... unmarried women are stigmatized as "*agir*" (infertile) or "*bayra*" ("not demanded for marriage") (CNN 21 June 2018; CMI Sept. 2017, 8). Sources also report that violence against women is prevalent in Sudan (US 11 Mar. 2020, 35; Freedom House 4 Mar. 2020). Based on her visit to Sudan from 13 to 24 May 2015, the UN Special Rapporteur on violence against women states that "single women, divorced women, women in polygynous marriages and displaced women who live on their own, are more vulnerable to violence, due to the perception that they are violating traditional and religious norms" (UN 18 Apr. 2016, para. 1, 91).'³²

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³⁰ UNPFA/GofS, '[Voices from Sudan 2020...](#)' (page 4), 18 July 2021

³¹ UNPFA/GofS, '[Voices from Sudan 2020...](#)' (page 4), 18 July 2021

³² IRBC, '[Sudan: Situation and treatment of single women in Sudan...](#)', 8 December 2020

5. Legal context

5.1 Influence of Islamic law (Sharia)

- 5.1.1 An article by Ola Diab, a Sudanese journalist based in Qatar³³, in 500 Words Magazine, which describes itself as a non-profit independent journal for young Sudanese inside and outside of the country, dated 31 March 2019, observed: ‘According to Islamic teachings, homosexuality is haram or forbidden. As a conservative Muslim country, Sudan’s legal system is based on the Islamic or Sharia law, which criminalises homosexuality.’³⁴
- 5.1.2 However, with regard the influence of Sharia, the USSD Religious Freedom (USSD IRF) report 2020 observed a shift in the basis of the law under the transitional government, stating that ‘[t]he constitutional declaration signed in August 2019... makes no reference to “sharia” or Islamic religious law as a source of law... [however] [l]aws promulgated under the former constitution remained in effect while the civilian-led transitional government (CLTG) worked to amend or abolish those laws and pass new legislation within the framework of the constitutional declaration.’ The USSD report 2020 also acknowledged in its section on trial procedures that ‘Sharia continued to influence the law’³⁵ but did not comment on the issue in its report covering events in 2021³⁶.

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5.2 Gay and bisexual men

- 5.2.1 The USSD’s human rights report covering events in 2021 (USSD human rights report 2021) stated: ‘The law [specifically the [Criminal Law Act 1991, amended 2020](#)] criminalizes sodomy for men, which is punishable if convicted by five years in jail for an initial offense... In 2020 the [Civilian-Led Transitional Government] CLTG abolished corporal and capital punishment for sodomy, although NGOs reported flogging cases sometimes still occurred.’³⁷
- 5.2.2 The International Lesbian, Gay, Bisexual, Trans and Intersex Association’s State-Sponsored Homophobia 2020 report (ILGA report 2020), December 2020, stated: ‘Sudan was previously one of the countries which maintained the death penalty for same-sex sexual activity. Law No. 12 of 2020, published in the Official Gazette, amended several sections of Article 148 [of the Criminal Act] to remove execution and flogging as punishments for such actions. However, persons found guilty of “sodomy” for a second time may be liable to be imprisoned for up to 7 years and to life imprisonment upon third conviction.’³⁸
- 5.2.3 The Sudan SOGI Coalition, Khartoum – contributors are not identified however the ILGA report, ‘Our identities under arrest’, December 2021,

³³ Radio Dabanga, ‘[Report: Denial of freedom of LGBTQ+ artistic expression...](#)’, 3 January 2021

³⁴ 500 Words Magazine, ‘[LGBTQ+ Coming Out of Sudan](#)’, 31 March 2019

³⁵ USSD, [IRF report 2020](#) (Executive summary and section 1e), May 2021

³⁶ USSD, [Human rights report 2021](#), 12 April 2022

³⁷ USSD, [Human rights report 2021](#) (section 6), 12 April 2022

³⁸ ILGA, ‘[State-Sponsored Homophobia...](#)’ (page 123), December 2020

ascribes the report to the NGO [Bedayaa](#)³⁹, which advocates for LGBTI rights in Egypt and Sudan – produced a ‘shadow’ report for the UN Human Rights Council as part of the Universal Periodic Review of Sudan in March 2021 (Shadow SOGI UPR report 2021). The report noted that ‘... according to the current law of evidence, also known as the rules of evidence, proving the charge [under Article 148 of the Criminal Law Act] has become easier. Courts can simply use digital evidence such as private chats or pictures on mobile phones as the basis for a conviction for homosexuality. (This contrasts with the law before the amendment [to Article 148 in 2020], where witness testimony was required.)’⁴⁰

- 5.2.4 A report authored by Mai Sato and Christopher Alexander for Eleos Justice (Monash University)/Capital Punishment Justice Project on state-sanctioned killing of sexual minorities, based on various sources including interviews with anonymous Sudanese interlocutors, 4 March 2021 (Sato and Alexander report 2021) opined:

‘... the legislature appears to be sending mixed messages: despite abolishing the death penalty, the new amendments also *increase* the prison sentence for a second conviction of sodomy from five to seven years. Accordingly, these reforms were considered by many activists to be a façade, motivated by a desire to “impress the world”, lacking any real policy backbone... As one interviewee noted, despite the legislative reforms, “they [the government] did not change at all their approach or rhetoric or criminalisation of homosexuality” ...’⁴¹

- 5.2.5 Article 151 of the Criminal Act 1991 relating to ‘indecent acts’ may also apply to men who have sexual relationships with men, see [Lesbian and bisexual women](#) and [Other laws...](#) below for more information.

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5.3 Lesbian and bisexual women

- 5.3.1 The Criminal Act 1991, amended 2020, does not specifically refer to same-sex sexual acts between women^{42 43}. However, both the ILGA report 2020 and Freedom House’s annual report on events in 2020 described same-sex sexual relations generally as criminalised^{44 45}.

- 5.3.2 Human Rights Watch in its annual report covering events in 2021 stated ‘... Article 151 [of the Criminal Act] provides for up to a year in prison for “indecent acts,” including between women.’⁴⁶ The Human Dignity Trust stated in an undated entry (although no information post dates 2020) that ‘Section 151 criminalises “indecent acts”, that is sexual acts not amounting

³⁹ ILGA, [‘Our identities under arrest’](#) (page 102), 15 December 2021

⁴⁰ SOGI Coalition, Shadow SOGI UPR report (pages 6 to 7), no date (accessed via ILGA’s report, [‘Our identities under arrest’](#) (page 102), 15 December 2021)

⁴¹ Sato, M, and Alexander, C, [‘State-Sanctioned Killing...’](#) (page 48), 4 March 2021

⁴² Sudan government, [Criminal Act 1991](#)

⁴³ Bedayaa, [‘Needs Assessment Report 2020’](#) (page 31), September 2021

⁴⁴ ILGA, [‘State-Sponsored Homophobia...’](#) (page 327), December 2020

⁴⁵ Freedom House, [‘Freedom in the World 2022’](#) (Sudan), 28 February 2022

⁴⁶ HRW, [‘World Report 2022’](#) (Sudan), 13 January 2022

to sodomy, with a penalty of up to one year imprisonment. The law is equally applicable to acts between men and between women.⁴⁷

5.3.3 Similarly the USSD human rights report 2021 noted: ‘The law... criminalizes... same-sex sexual activities for both men and women as “indecent acts” punishable by up to one year and monetary fines.’⁴⁸

5.3.4 See [Other laws...](#) below for more information about Article 151 of the Criminal Law Act.

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5.4 Trans and intersex persons

5.4.1 The LGBTI NGO Bedayaa produced a needs assessment of LGBTI persons in September 2021 based on online survey of 169 respondents and interviews with 5 ‘queer’ women and 4 ‘trans-persons’ conducted between October and December 2020 (Bedayaa needs assessment 2020). Around 80% of survey respondents were under 30, just over 64% were men, over 70% lived with their families and just over 70% were single. Most were highly educated - over 86.9% had degrees or postgraduate qualifications – were described as ‘middle class’ and from Khartoum⁴⁹.

5.4.2 The survey also noted that of the respondents ‘43.2% identified as gay men and 10% as bisexual, and 2.9% as pansexual. 10% know themselves as gay women, 13.6% bisexual women and 5.3% are pansexual women and 9.5% preferred to call themselves queer... [their] gender identities [were] as follows, 55.2% men, 28.4% women, 5.9% transmen, 4.2% transwoman, and 4.7% queer’⁵⁰. NB the survey was voluntary and self-reporting, and its findings are therefore likely to reflect the experiences of well-educated, middle class and urban LGBTI persons.

5.4.3 The Bedayaa needs assessment 2020, based on its discussions with the 4 trans persons, observed ‘Legally our interlocutors do not find themselves under any umbrella. The laws that are available are only for intersex. Intersex people are legally protected, and their medical needs are provided free of charge. Trans people however are not recognized, and as such they face more challenges. There are no laws that prevent them from changing their gender, but also no laws that recognize them. Basically, unseen under the legal framework.’⁵¹

5.4.4 Other sources consulted do not cite laws explicitly referring to trans or intersex persons (see [Bibliography](#)).

5.4.5 Article 151 of the Criminal Act 1991 relating to ‘indecent acts’ may also apply to trans persons, see [Lesbian and bisexual](#) women above and [Other laws...](#) below for more information.

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⁴⁷ Human Dignity Trust, ‘[Sudan](#)’, no date

⁴⁸ USSD, [Human rights report 2021](#) (section 6), 12 April 2022

⁴⁹ Bedayaa, ‘[Needs Assessment Report 2020](#)’ (pages 14 to 17), September 2021

⁵⁰ Bedayaa, ‘[Needs Assessment Report 2020](#)’ (page 17), September 2021

⁵¹ Bedayaa, ‘[Needs Assessment Report 2020](#)’ (page 35), September 2021

5.5 Other laws that may be applicable to LGBTI persons

- 5.5.1 The ILGA report 2020 noted ‘... Section 151 [of the Criminal Law Act] punishes acts of “gross indecency” with up to forty lashes and imprisonment for up to one year or a fine. Section 152 punishes acts of sexual nature that cause discomfort to public sentiment or public modesty with imprisonment of up to six months and/or a fine.’⁵²
- 5.5.2 The Badayaa needs assessment 2020 observed: ‘... the penal code [the Criminal Law Act] in article 151 speaks about public “indecency” which is translated to any act that could offend the public and disturb the order... This act as mentioned in the legal framework is anything that stands against society’s norms and religion. Indecency is not a standard measure; it rather depends on subjective standards of law enforcement.’⁵³
- 5.5.3 The ILGA report 2020 also noted: ‘Article 152 of the Penal Code [Criminal Act] (1991) criminalises the making, portrayal, possession, or dissemination of any material contrary to public morals. The National Telecommunications Corporation (NTC) blocks websites considered “offensive to public morality”... Sources indicate that while pornography is the primary target of this censorship, [sexual orientation and gender identity / expression] SOGIE content and dating sites are also subject to it...’⁵⁴
- 5.5.4 Additionally, the Bedayaa needs assessment 2020 observed:
‘The public order act of 1991 controls many aspects of Khartoum... Chief among these aspects is women’s dress codes, movements, and socialization. The law gets its legitimacy from the society as well as it claims Islamic premises of protecting Sharia. Under the public order act, women and LGBTQI+ persons can be punished for indecent clothing by lashing, paying fines, or both. Any man can report a woman to the police for indecent clothing in the street... Usually, this does not happen, it is policemen who use the law to control women and open cases against them. The law affects middle-class persons, as well as labourers, women in the informal sector and beggars. For a long time, this law threatened people in public domains and activists. Many queer people we met mentioned that they do not feel comfortable in public spaces because of this article. Those who choose to dress differently for example can be targeted under such law and particularly trans individuals.’⁵⁵
- 5.5.5 However, the USSD report for 2020 stated that during the year the government ‘continued its legal reform process. This included repealing the public order act...’ but acknowledged that ‘... there were unconfirmed reports individual officers still applied it ad-hoc.’⁵⁶ There is no mention of the public order act or its continued application in the USSD human rights report for 2021⁵⁷ (See also discussion of the public order laws in subsection [Gender: status and treatment of women generally](#) above.)

⁵² ILGA, [‘State-Sponsored Homophobia...’](#) (page 123), December 2020

⁵³ Bedayaa, [‘Needs Assessment Report 2020’](#) (page 8), September 2021

⁵⁴ ILGA, [‘State-Sponsored Homophobia...’](#) (page 149), December 2020

⁵⁵ Bedayaa, [‘Needs Assessment Report 2020’](#) (page 7), September 2021

⁵⁶ USSD, [Human rights report 2020](#) (Executive summary and section 6), 30 March 2021

⁵⁷ USSD, [Human rights report 2021](#), 12 April 2022

5.6 Anti-discrimination legislation

- 5.6.1 The USSD human rights report 2021 noted that LGBTI persons 'are not considered a protected class under antidiscrimination laws'⁵⁸. Similarly, the ILGA report 2020 noted that there are no laws to protect LGBTI persons, including in employment, from hate crime or conversion therapies⁵⁹.

Section 6 updated: 22 April 2022

6. Treatment by unidentified actors

- 6.1.1 This section contains information documenting attitudes and acts towards LGBTI persons where sources do not clearly demarcate individuals or groups who hold the views and/or what violations were committed by individuals or groups. Information that can be ascribed to particular groups – state or non-state actors – is provided in the relevant following sections.
- 6.1.2 An article in 500 Words Magazine dated 31 March 2019 reported that as a result of criminalisation of same-sex sexual acts '... members of the LGBTQ+ community in Sudan live double lives, keeping their gender and sexual identities under wraps to avoid social, religious and legal prosecution.'⁶⁰
- 6.1.3 A blog by 'Hamada' a Sudanese LGBTI activist of 8 May 2019 – written prior to the formation of the transitional government, the disbanding of the Public Order Police and amendments to the penal code relating to sodomy in 2020 - published on the Chr Michelsen Institute website (LGBTI activist blog 2019), provided a personal perspective of experiences of LGBTI people in Sudan. The blog observed:
- 'The LGBTQI+ community has never been recognized in Sudan and is still to a great extent denied any form of rights to freedom, peace and justice. Because of your sexual orientation or gender identity, you risk being denied access to health services and education, to lose your job and being subject to hate crimes. This is part of your everyday life as a LGBTQI+ persons in Sudan. The burden is even harder for LGBTQI+ persons who are women, of dominant African descent and belonging to a religious minority as these groups have been targeted by the regime we are now protesting against...
- 'But regardless of what happens in social media, the situation on the ground is very different. The Sudanese LGBTQI+ community still worries about being identified as being LGBTQI+ in public, including at protests and sit-ins. There is a real danger of being harassed or attacked.'⁶¹
- 6.1.4 Similarly, Freedom House in its annual report covering events in 2021 observed 'Discrimination against LGBT+ people remains common' although the report provides detail as to the sources or nature of the discrimination⁶².

⁵⁸ USSD, [Human rights report 2021](#) (section 6), 12 April 2022

⁵⁹ ILGA, ['State-Sponsored Homophobia...'](#) (page 326), December 2020

⁶⁰ 500 Words Magazine, ['LGBTQ+ Coming Out of Sudan'](#), 31 March 2019

⁶¹ CMI, ['Blog from Sudan: The Sudanese Revolution : A fight for LGBTQI+ Rights?'](#), 7 May 2019

⁶² Freedom House, ['Freedom in the World 2022'](#) (Sudan), 28 February 2022

The same report also noted: 'LGBT+ people remain politically marginalized given the continued criminalization of same-sex sexual activity.'⁶³

- 6.1.5 The Shadow SOGI UPR report 2021 stated: 'LGBTQI+ individuals are constantly harassed, beaten up, and in some cases killed because of their sexual orientation or gender identity. These acts of hostilities are perpetrated by members of the society and state actors directly and indirectly by not providing necessary protection to the community and enshrined laws criminalizing same sex activity which reinforces prejudice against LGBTQI+ people.'⁶⁴

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Section 7 updated: 22 April 2022

7. State attitudes and treatment

7.1 Statements or views expressed by public officials

- 7.1.1 The Australian Department of Foreign Affairs and Trade commenting in April 2016 (DFAT report 2016), at a time when former President Al Bashir was still ruling the country, noted 'As in the Arab and African world in general, significant official stigma... is associated with sexual orientation and gender identity...'⁶⁵
- 7.1.2 The Sato and Alexander report 2021, citing an anonymous Sudanese source, noted 'Though the [now former] "Harvard educated" ... Minister of Justice was ostensibly supportive of the reform [of Article 148 of the Criminal Law Act 1991], he was forced to compromise with the Sovereignty Council of Sudan—the collective head of state—who refused to accept all the reforms proposed (Ibid.). The continued criminalisation of sodomy, albeit without the death penalty, was one such concession.'⁶⁶
- 7.1.3 CPIT found no other information about statements made or views expressed by government figures and public officials in the sources consulted (see [Bibliography](#)).

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7.2 Arrests, harassment and other violations

- 7.2.1 The LGBTI activist blog 2019 stated that 'the death penalty [for a third conviction for sodomy under the pre 2020 version of Article 148 of the Criminal Law Act] has not been enforced. The same source also observed – writing prior to the formation of the transitional government, the disbanding of the Public Order Police and amendments to the penal code relating to sodomy in 2020, 'In Sudan, the Islamist regime has viewed homosexuality as a crime against God... there is a huge risk of being harassed and arrested by the public order police for breaking the country's public order or

⁶³ Freedom House, '[Freedom in the World 2022](#)' (Sudan), 28 February 2022

⁶⁴ SOGI Coalition, Shadow SOGI UPR report (page 3), no date (accessed via ILGA's report, '[Our identities under arrest](#)' (page 102) 15 December 2021)

⁶⁵ DFAT, '[Country Information Report – Sudan](#)' (paragraph 3.61), April 2016

⁶⁶ Sato, M, and Alexander, C, '[State-Sanctioned Killing...](#)' (page 47), 4 March 2021

morality laws that regulate every aspect of human behavior down to what you wear...'⁶⁷

7.2.2 The Sato and Alexander report 2021, in part based on interviews with anonymous interlocutors in Sudan, stated: 'Our interviewees confirmed that nobody had been sentenced to death or executed under the old law...'⁶⁸

7.2.3 However, the Sato and Alexander report 2021, in part based on interviews with anonymous interlocutors in Sudan, stated:

'... many persons perceived as belonging to sexual minorities had been arrested and prosecuted under other criminal provisions [than Article 148 of the Criminal Act], such as indecent acts or prostitution... The police also seek out and torture sexual minorities... Our interviewees in Sudan shared very similar stories of the police raping and beating men whom they perceived as gay... For example, in 2016, the police arrested a man in Khartoum for wearing pink socks... In police custody, he was severely beaten and brutally sodomised with a stick, causing severe injury and bleeding. When his lawyer tried to meet him, the police refused, asking "why are you helping those people?". After three days, he was released and hospitalised, but declined to bring any legal action against the police... Another of our interviewees spoke about being repeatedly raped by a police officer, unable to escape the violence as a result of being blackmailed by his rapist with a video recording of their previously consensual sexual activity...'⁶⁹

7.2.4 The Shadow SOGI UPR report 2021 observed:

'[The] Sudanese legal system... does not offer adequate safeguards and remedies in connection to unlawful detention by [the] security forces. The ousted regime [of former President Al Bashir] often relied on its security apparatuses to oppress and silence dissent[er]s. In doing so, state actors were given a carte blanche with no proper oversight. Members of the LGBTQI+ community in Sudan have been a target of violations by security apparatuses. Documented cases show that the sexual orientation or gender identity were a trigger for the arrests themselves or at a later stage, it exacerbates abuse.

'Security forces in Sudan, and since the ousted regime came to power, were empowered to police behaviour whether in public or private spaces. Members of the LGBTQI+ community are more vulnerable to these transgressions than others.'⁷⁰

7.2.5 The Shadow SOGI UPR report 2021 also referred to several examples of state ill-treatment of LGBTI persons. These included an incident reported in the online newspaper, sudanakhbar.com, in July 2020 where the 'Court of 24 al-Qurashi... carried out a punishment of 40 lashes and a fine of 40,000 [Sudanese] pounds as a discretionary judgment on two young men who

⁶⁷ CMI, '[Blog from Sudan: The Sudanese Revolution : A fight for LGBTQI+ Rights?](#)', 7 May 2019

⁶⁸ Sato, M, and Alexander, C, '[State-Sanctioned Killing...](#)' (page 48), 4 March 2021

⁶⁹ Sato, M, and Alexander, C, '[State-Sanctioned Killing...](#)' (page 48), 4 March 2021

⁷⁰ SOGI Coalition, Shadow SOGI UPR report (pages 5 to 6), no date (accessed via ILGA, '[Our identities under arrest](#)' (page 102), 15 December 2021)

were convicted of indecent acts and sodomy.⁷¹ The Shadow Coalition UPR report 2021 cited the same incident, referring to an undated Bedayaa and [Shades of Ebony](#) (a LGBTI advocacy group in Sudan and amongst the Sudanese diaspora) document, '[Human rights violations based on SOGI in Sudan](#)', also described the arrest of a gay man and his partner while walking in Khartoum, apparently while the police were patrolling the area after receiving 'reports of gay men having sex in the location.' The man's phone was searched, while his partner was reportedly physically assaulted. Both were released after an hour without charge⁷².

7.2.6 The Bedayaa Needs Assessment 2020 noted that

'Despite the lack of knowledge [of the legal situation for LGBTI persons], only [a] few people said they have been arrested or discriminated against (10%) [by the security forces]. The rest of the respondents said they were not arrested (81%) and 8.8% preferred not to share an answer... Here also the socio-economic backgrounds of the participants plays a role in terms of protection from police [most applicants were highly educated, middle class professionals⁷³]. Most of the people (59.7%) do not feel comfortable and safe to ask for help from police even when they are at risk. This explains that most people live in a state of avoidance by not getting themselves in any trouble. Since more people have not been arrested, few (30.7%) were harassed while in police premises.'⁷⁴

7.2.7 However, of those who experienced problems, 'People mentioned various types of abuse by the police such as sexual harassment, sexual abuse, physical assaults, bullying and rape.'⁷⁵

7.2.8 The Bedayaa needs assessment 2020 based on interviews with 4 trans person stated:

'Our conversers expressed their experiences and anxiety in various situations with policemen and other citizens. They try to avoid conflicts so that they do not end up in a cell, beaten or raped. Sometimes they face challenges while dealing with authorities, mostly from individuals who do not understand their cases. They get embarrassed or are asked to clarify their genders out loud which puts a trans person in a difficult situation; it invades their privacy even if the regulations are correct. In the civil registry and throughout all governmental procedures there must be a place and space for trans people so they could get their papers in privacy and respect governmental procedures there must be a place and space for trans people so they could get their papers in privacy and respect.'⁷⁶

7.2.9 The ILGA report, 'Our identities under arrest', released in December 2021 observed '... cases of criminal enforcement only rarely get reported, with only the largest cases seeming to attract public attention. Bedyaa further

⁷¹ SOGI Coalition, Shadow SOGI UPR report (page 7), no date (accessed via ILGA, '[Our identities under arrest](#)' (page 102), 15 December 2021)

⁷² SOGI Coalition, Shadow SOGI UPR report (page 9), no date (accessed via ILGA, '[Our identities under arrest](#)' (page 102), 15 December 2021)

⁷³ Bedayaa, '[Needs Assessment Report 2020](#)' (page 15), September 2021

⁷⁴ Bedayaa, '[Needs Assessment Report 2020](#)' (page 23), September 2021

⁷⁵ Bedayaa, '[Needs Assessment Report 2020](#)' (page 24), September 2021

⁷⁶ Bedayaa, '[Needs Assessment Report 2020](#)' (page 36), September 2021

claims that as a largely tribal and family-oriented country, many cases fall outside of the scope of State enforcement and thus also may go undocumented.⁷⁷

7.2.10 Erasing 76 crimes stated in an article of October 2021 based on an earlier interview between Noor Sultan, executive director of Bedayaa, and the web security company Cloudflare, reported:

‘The biggest threat to Bedayaa is tracking and censorship by the government, since the Egyptian and Sudanese governments are both very aggressive regarding SOGI (sexual orientation and gender identity) issues.

“There are many reports of incidents involving the tracking and arrests of homosexuals through online platforms,” noted Sultan. “Thankfully, we’ve never faced a problem through our website, but other platforms (social media, Facebook, online dating) have had issues. Police spies create social accounts, and when you go to meet them in person they turn out to be police and arrest you.”

‘Bedayaa also had difficulties with attacks on their website temporarily knocking it offline or preventing access altogether.

“Sometimes the website wasn’t there,” Sultan commented. “We’re not sure if it’s a technical problem or if it’s the government trying to stop us.”⁷⁸

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7.3 State protection

7.3.1 The USSD report on events in 2021 stated in regard to the security apparatus, including the police:

‘Until October 25, responsibility for internal security resided with the Ministry of Interior, which oversees police agencies, the Ministry of Defense, and the General Intelligence Service. Ministry of Interior police agencies include the security police, special forces police, traffic police, and the combat-trained Central Reserve Police. There is a police presence throughout the country. The Ministry of Defense has a mandate to oversee all elements of the Sudanese Armed Forces, including the Rapid Support Forces, Border Guards, and defense and military intelligence units; these forces are also charged with protecting sensitive government buildings and sites. Several times during the year, authorities began standing up a Joint Security Force, with a mandate to protect civilians. During the first 10 months of the year, police infrastructure remained largely under civilian authority. After the military takeover on October 25, there were credible reports members of the security forces committed numerous serious abuse..⁷⁹

7.3.2 The USSD report covering events in 2021 also noted with regard to the judiciary:

‘The constitutional declaration and relevant laws provide for an independent judiciary, and the government generally respected judicial independence and impartiality. The CLTG dismissed numerous judges throughout the country

⁷⁷ ILGA, [‘Our identities under arrest’](#) (page 103), 15 December 2021

⁷⁸ Erasing 76 crimes, [‘Sudan coup adds uncertainties for LGBTQ+ community’](#), 25 October 2021

⁷⁹ USSD, [Human rights report 2021](#) (Executive summary), 12 April 2022

who were considered incompetent or corrupt or who had strong ties to the former regime or the country's intelligence apparatus. Following October 25, some dismissed judges, prosecutors and Ministry of Justice staff were returned to service. There were no known reports of denials of fair trials, although many courts faced closures during the year due to strikes and COVID-19 pandemic restrictions.⁸⁰

7.3.3 The Freedom House report covering events in 2020 noted:

'The interim constitution envisaged the establishment of an independent judiciary to replace the politically influenced judiciary of the al-Bashir era. In May 2021, the TSC removed Chief Justice Nemat Abdullah Khair and accepted the resignation of Attorney General Taj al-Ser Ali al-Hebr, who complained of a lack of independence. That month, the ERC removed more than 20 public prosecutors from office.

'Following the October 2021 coup, General al-Burhan replaced the acting public prosecutor and chief justice with former [National Congress Party] NCP officials. Al-Burhan's replacement head judge, Chief Justice Abdulaziz Fath al-Rahman Abdeen, issued a directive in December ordering the reinstatement of all judges dismissed by the [Empowerment Removal Committee] ERC.⁸¹

7.3.4 However, with regard to assistance to LGBTI persons, the USSD report on events in 2021, repeating comments made in its reports for 2019⁸² and 2020⁸³, observed: 'There were no reports of official action to investigate or punish those complicit in LGBTQI+-related discrimination or abuses.'⁸⁴ While the Shadow SOGI UPR report 2021 noted stated: '[The] Sudanese legal system... does not offer adequate safeguards and remedies in connection to unlawful detention by [the] security forces... Access to justice [for LGBTQI+ persons] is hindered by social barriers, fears of repercussions, while the complex legal immunities protect perpetrators from security personnel under the legal system.'⁸⁵

7.3.5 In regard to women generally, not lesbian or bisexual women in particular, the UN Special Rapporteur on violence against women, in her report following a visit to Sudan in May 2015 (conducted during the regime of the President Al Bashir not the current government) expressed her concern at '... the widespread lack of access to justice for women victims of domestic violence, including the absence of legal assistance or State-sponsored legal aid, as well as by the culture of impunity and the silencing of victims.'⁸⁶

7.3.6 Similarly the USSD report on events in 2021 observed 'Human rights organizations cited substantial barriers to reporting sexual and gender-based violence, including cultural norms, police reluctance to investigate, and the

⁸⁰ USSD, [Human rights report 2021](#) (section 1e), 12 April 2022

⁸¹ Freedom House, '[Freedom in the World 2022](#)' (Sudan), 28 February 2022

⁸² USSD, [Human rights report 2019](#) (section 6), 11 March 2020

⁸³ USSD, [Human rights report 2020](#) (section 6), 30 March 2021

⁸⁴ USSD, [Human rights report 2021](#) (section 6), 12 April 2022

⁸⁵ SOGI Coalition, Shadow SOGI UPR report (pages 5 to 6), no date (accessed via ILGA's report, '[Our identities under arrest](#)' (page 102) 15 December 2021)

⁸⁶ UNHRC SR, '[Report of the Special Rapporteur on violence...](#)' (paragraph 30), 18 April 2016

widespread impunity of perpetrators.’ The source also noted ‘Government officials have not enforced sexual harassment law effectively.’⁸⁷

- 7.3.7 The UNPFA/GoS report of a quantitative study of violence against women conducted between August and November 2020 stated in its summary findings in regard to women and girls generally: ‘The first line of reporting [after a woman or girl has been subject to gender-based violence (GBV)] is the family, followed by traditional justice, and as a last resort, the police. Informal and traditional mechanisms of dispute resolution (Joudia) are commonly used. They are reported to perpetrate injustice against women. The legal framework is reported to be ineffective in addressing GBV cases.’⁸⁸
- 7.3.8 There is limited information regarding the situation of LGBTI persons following the military coup in October 2021 (see [Bibliography](#)). The ILGA December 2021 report ‘Our Identities Under Arrest’, noted that the impact of the military takeover in October 2021 on LGBTI people was unclear at the time of writing.⁸⁹

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Section 8 updated: 22 April 2022

8. Societal attitudes and treatment

8.1 Public opinion

- 8.1.1 The DFAT report 2016 noted ‘As in the Arab and African world in general, significant... societal stigma is associated with sexual orientation and gender identity...’⁹⁰ While the USSD report 2020 considered ‘Anti-LGBTI sentiment remained pervasive in society’⁹¹ and the UK Foreign Commonwealth and Development Office (FCDO) noted on its Sudan travel advice for British Citizens travelling to Sudan (whose experience may be different from that of Sudanese nationals): ‘Sudanese society is not tolerant of homosexual relationships.’⁹²
- 8.1.2 On being polled by Afrobarometer in 2018 about their attitudes towards having a ‘homosexual’ neighbour, 14% of Sudanese respondents answered they would ‘strongly like’, ‘somewhat like’ or ‘would not care’. This was below the 20% average ‘tolerance’ rate for the 34 African countries surveyed⁹³. Afrobarometer also explained that interviewees were asked about homosexuals ‘... because this word is widely understood and can be translated into local languages across Africa. In this report, we interpret responses to apply to the broader LGBTQ category, or persons of non-heterosexual identities or orientations.’⁹⁴
- 8.1.3 A later survey by [Arab Barometer](#) in 2019 found that 17% of respondents considered ‘homosexuality’ acceptable (the survey questions are not

⁸⁷ USSD, [Human rights report 2021](#) (section 6), 12 April 2022

⁸⁸ UNPFA/GoS, ‘[Voices from Sudan 2020...](#)’ (page 4), 18 July 2021

⁸⁹ ILGA, ‘[Our identities under arrest](#)’ (page 102), 15 December 2021

⁹⁰ DFAT, ‘[Country Information Report – Sudan](#)’ (paragraph 3.61), April 2016

⁹¹ USSD, ‘[2020 Country Report on Human Rights Practices: Sudan](#)’ (section 6), 30 March 2021

⁹² FCDO, ‘[Foreign Travel Advice - Sudan](#)’ (Local laws and customs), updated 3 January 2022

⁹³ Afrobarometer, ‘[All in this together...](#)’ (page 12), 19 May 2020

⁹⁴ Afrobarometer, ‘[All in this together...](#)’ (page 5), 19 May 2020

available, so it has not been possible to identify if the same questions as the Afrobarometer were asked and therefore if the polls are directly comparable)⁹⁵.

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8.2 Treatment by societal actors

8.2.1 The March 2021 Sudan country report from the Eleos Justice (Monash University) / Capital Punishment Justice Project), based on various sources including anonymous Sudanese interlocutors, stated:

‘...the situation remains dire for sexual minorities in Sudan. In early 2020, one man was killed and another was severely injured in Abu Hamad after allegations were made that a party they had attended was in fact their same-sex wedding... Video footage, either of this incident or a similar one, was subsequently posted online, accompanied by a homophobic social media campaign inciting civilians to kill sexually diverse persons... In Sudan, sexual minorities are subjected to honour killings... and conversion practices known as *ruqyah* (exorcisms) are performed by religious leaders...’⁹⁶

8.2.2 A joint statement made by Bedaya and 2 other NGOs on the same incident in March 2020 noted:

‘We have monitored closely the violent incidents that took place on Friday and Saturday, 6th and 7th of March 2020 at “Tawaheen Al-Dahab market, Abu Hamad, River Nile State, north of Khartoum, Sudan”, where a Sudanese citizen was killed, a number of shops and cafes were damaged and burned, and approximately 80 persons were arrested.

‘The incidents escalated after hundreds of citizens of this area gathered and demanded the authority to impose security control on mining sites according to a statement issued by the Executive Director of Abu Hamad district, Yahya Khaled Abdel Baset. The citizens also demanded to deport whom “Yahya Khaled” called as the “persons of bad behaviors” outside the district. The statement also indicated that the killed citizen has been transferred to Atbara city, due to the refusal of the locals to bury him in the district's graves.

‘It is claimed by another statement issued by the Sudanese Mineral Resources Company in the River Nile State that the incidents happened as a result of holding a party in one of the cafes in Abu Hamad, while different stories claimed that the party is a “gay marriage” ceremony. This led to a security chaos that was fuelled by malicious incitement from some individuals at the market. The statement concluded that all the necessary legal measures have been taken to impose the security control and evacuate what is called “persons with bad behaviors” from all mining sites.

‘Even though all the received news does not conclusively confirm the reasons and causes of this escalation, they are all agreed on the death of a Sudanese citizen and the refusal to bury him in the district's graves as a result of these violent incidents. These incidents followed by published videos contain homophobic verbal and physical abuse against a person; these videos showed this person while being severely beaten by

⁹⁵ BBC News, [‘The Arab world in seven charts...’](#), 24 June 2019

⁹⁶ Sato, M, and Alexander, C, [‘State-Sanctioned Killing...’](#) (pages 47 to 48), 4 March 2021

perpetrators. Consequently, a homophobic social media campaign was outspread as an incitement to kill people with different sexual orientations.⁹⁷

- 8.2.3 The UNPFA/GofS qualitative assessment of gender-based violence undertaken between August and October 2020 included 215 focus groups discussions with communities across the country, 21 group discussions with GBV experts and a review of existing literature⁹⁸. The assessment noted, in the context of violence against men which respondents generally considered to be rare, that ‘Limited respondents also mentioned members of the LGBTQ+ community, and particularly gay men, as particularly vulnerable. “Homosexuals are exposed to violence from other men” Woman, Umm Bedda, Khartoum. “[violence happens] in cases of homosexuality” Man, Um Kadada, North Darfur.’⁹⁹
- 8.2.4 The Bedayaa needs assessment 2020 noted regarding trans persons ‘The most challenging issue becomes changing their identity documents.’¹⁰⁰ The assessment also noted:
- ‘Most of the Sudanese communities live in a network of tied social relations in which there are economic, cultural, and religious factors involved. These close ties mean for some people an invasion of privacy and imposing of extended families’ rules. For trans people it is a serious challenge to face their families and their extended families. They can not express themselves and they rather live in isolation from their communities to avoid people’s opinions... Trans group we interviewed live in a state of avoidance, they minimize their socializing activities.
- 8.2.5 The Sudan LGBTI activist blog 2019 also observed in regard to other members of civil society: ‘Many women’s rights defenders and human rights defenders in Sudan are very conservative when it comes to the LGBTQI+ community, and homophobic attitudes are widespread even within those groups...’¹⁰¹
- 8.2.6 Freedom House (FH) in its report on internet freedom over 2020/21, published September 2021, noted ‘Social media influencers and minority groups such as LGBT+ people are also frequent targets of online harassment.’ FH gave Sudan an internet freedom score of 33 out of 100 – classifying it as ‘not free’¹⁰².

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Section 9 updated: 22 April 2022

9. Access to public services and employment

- 9.1.1 The Bedayaa needs assessment report 2020 observed that LGBTI people face ‘stigma’ in accessing medical care¹⁰³. In its survey, results based on

⁹⁷ Bedayaa and others, ‘[Abu-Hamad Statement](#)’, 10 March 2020

⁹⁸ UNPFA/GofS, ‘[Voices from Sudan 2020...](#)’ (page 5), 18 July 2021

⁹⁹ UNPFA/GofS, ‘[Voices from Sudan 2020...](#)’ (page 25), 18 July 2021

¹⁰⁰ Bedayaa, ‘[Needs Assessment Report 2020](#)’ (page 35), September 2021

¹⁰¹ CMI, ‘[Blog from Sudan: The Sudanese Revolution : A fight for LGBTQI+ Rights?](#)’, 7 May 2019

¹⁰² FH, ‘[Freedom on the Net 2021](#)’ (Sudan), September 2021

¹⁰³ Bedayaa, ‘[Needs Assessment Report 2020](#)’ (pages 41), September 2021

responses from 169 LGBTI people in Sudan, on access to services including healthcare it found:

'28.1% mentioned that they were discriminated against because of their sexual orientation when asking for services. 36.5% preferred not to answer and 35.3% did not mention any discrimination. Great number of the informants mentioned that they were exposed to verbal abuse (68.5%), 66.6% were bullied and 24.5% faced physical assaults. 35% faced sexual abuse, 10.5% were sexually harassed and 33.4% were harassed. Then 35% did not get the services as expected and got harassed. Then 35% did not get the services as expected and got delays or rejection of services.'¹⁰⁴

- 9.1.2 The Bedayaa needs assessment report 2020 also found: 'A considerable number of people faced discrimination based on their sexual orientation in their workplace (37.8%) and 46.7% did not have such experiences. Most of those who went through discrimination said it was verbal harassment (41.5%). Then others (24.6%) experienced work unease and complications. 15.4% went through sexual harassment and 3.8% lived sexual assaults. 13.8% were not accepted at jobs.'¹⁰⁵
- 9.1.3 The Bedayaa needs assessment 2020 provided its findings based on interviews with 5 'queer' women particular in regard to accessing healthcare.
- '[Sudanese]... society is conservative and as such it is rarely acceptable for women to have sexual intercourse outside a marriage. Many doctors may represent such moral stands against sexual freedoms, and they become a source of fear for patients. For a queer woman this is a risk not only because of her sexual "state" i.e. intercourse without marriage, become a source of fear for patients but also because of her sexual identity...
- 'Overall, the health services available for queer women is surrounded by inaccessibility, fear, and potential stigma. As we mentioned earlier in this section, queer women face similar challenges as do other single women, but they also live in a state of further fear. They struggle for being who they are, for being women in a conservative society and sometimes for choosing to be sexually active.'¹⁰⁶
- 9.1.4 The Bedayaa needs assessment 2020 also undertook a focus group discussion with 4 trans persons. The report noted: 'Trans people have very limited access to medical treatments in Sudan. Most of them need to travel abroad for surgeries, hormonal therapy, and even medical prescriptions. There is no information on centres or clinics that provide trans people health services. The journey of transition/correction is an uneasy one starting from finding a psychiatrist as a first step.'¹⁰⁷

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Section 10 updated: 22 April 2022

¹⁰⁴ Bedayaa, '[Needs Assessment Report 2020](#)' (pages 7), September 2021

¹⁰⁵ Bedayaa, '[Needs Assessment Report 2020](#)' (page 24), September 2021

¹⁰⁶ Bedayaa, '[Needs Assessment Report 2020](#)' (page 30), September 2021

¹⁰⁷ Bedayaa, '[Needs Assessment Report 2020](#)' (page 35), September 2021

10. LGBTI groups

- 10.1.1 The ILGA report 2020 considered that the ‘... criminalisation of consensual same-sex sexual activity, coupled with a rigorous registration process mandated under Section 8(1) of the Voluntary and Humanitarian Work (Organisation) Act (2006), makes it highly unlikely that an organisation working on sexual and gender diversity issues would be registered [with the government].’¹⁰⁸
- 10.1.2 The USSD report covering events in 2021 noted ‘LGBTQI+ organizations reported restrictions on their freedom of assembly and increased pressure to suspend or curtail activities due to fear of harassment, intimidation, or abuse.’¹⁰⁹
- 10.1.3 Radio Dabanga in an article of 3 January 2021 reporting the publication of a report by Freemuse about LGBTI artistic freedom and an interview with the Sudanese journalist Ola Diab who has reported on LGBTI issues in Sudan stated, ‘The Freemuse report, *Painting the Rainbow: How LGBTI Freedom of Artistic Expression is Denied*, highlights 149 acts of artistic violations against LGBTQ+ persons and art documented between January 2018 and June 2020. It is virtually impossible to register LGBTQ+ organisations in the country, “despite human rights organisations’ attempts to legally challenge discriminatory national legislation.”’¹¹⁰
- 10.1.4 The same Radio Dabanga article also reported
- ‘Ola Diab told Radio Dabanga that the LGBTQ+ movement in Sudan is only just beginning, along with coverage of it. “Due to social media, more people are talking about the existence of the LGBTQ+ community in Sudan and their rights in the country,” including Sudanese people who are advocating for LGBTQ+ rights in Sudan, such as Norway-based artist and gay rights advocate Ahmed Umar and queer activist and visual artist Malab Alneel... According to Diab, “we’re slowly seeing the birth of a Sudanese LGBTQ+ movement, especially after the revolution where many highlighted a new Sudan with rights for all, including those of the LGBTQ+ community. It’s happening gradually as the rights of the LGBTQ+ is under the spotlight on the world stage. However, there’s still significant resistance in Sudan – politically, socially and religiously.”
- ‘When asked about change could come about after the revolution in Sudan, Diab said that even if media organisations begin to report more on LGBTQ+ issues, public backlash would form a strong resistance to change. “With time, media organizations in Sudan and abroad will gradually discuss the challenges the LGBTQ+ community in Sudan face. Even if the laws become more accepting of the LGBTQ+ community, there will be a social or community resistance that will come into light in the media – whatever the form,” ...’¹¹¹
- 10.1.5 The LGBTI activist blog 2019 stated:

¹⁰⁸ ILGA, ‘[State-Sponsored Homophobia...](#)’ (page 172), December 2020

¹⁰⁹ USSD, [Human rights report 2021](#) (section 6), 12 April 2022

¹¹⁰ Radio Dabanga, ‘[Report: Denial of freedom of LGBTQ+ artistic expression...](#)’, 3 January 2021

¹¹¹ Radio Dabanga, ‘[Report: Denial of freedom of LGBTQ+ artistic expression...](#)’, 3 January 2021

'One of [the] few current active advocacy groups, Shades of Ebony, posted statements supporting the revolution and sharing their demands and thoughts on how the LGBTQI+ community is part of the demands raised by the whole nation. Twitter accounts such as @Sudan_voices which has more than 40 000 followers featured a discussion about the LGBTQI+ rights as part of the revolution. Individuals like Ahmed Umar, an openly gay Sudanese Artist who lives in Norway, initiated discussions about what it means to be an LGBTQI+ person in Sudan, and many others took part in discussions on social media about being queer and how they perceived the revolution. The messages were very clear: We are part of this country, society and revolution, and as LGBTQI+ individuals we want to be included, considered and respected. It is our right to have freedom, to live in peace and to be treated with justice.'¹¹²

- 10.1.6 Erasing 76 crimes stated in an article of October 2021 based on an earlier interview between Noor Sultan, executive director of Bedayaa, and the web security company Cloudflare, reported:

'Bedayaa's online platform is critical for the LGBTQI people in the region [Bedayaa operates in Egypt and Sudan]. Noor Sultan, executive director of Bedayaa, explained that "Some of the people in this community do not want or dare to be in touch with people on the ground to discuss and get involved with others. They fear that meetings in person may jeopardize their security. Digital communication could, if done in a secure way, solve this problem because it allows people to communicate from anywhere."

'Sultan continued, "There is clear a lack of resources that talk about homosexuality in Arabic. There are few resources that give a clear understanding of what homosexuality is and how a homosexual person can live and survive in countries like Egypt and Sudan. Furthermore, there are no Arabic-language resources that provide social and psychological advice and support to those who may need it or who feel affected negatively by social norms. This is the hole we try to fill with the Bedayaa Platform."¹¹³

- 10.1.7 Sources refer to 4 organisations that advocate on behalf of and / or provide support to LGBTI people in Sudan, although it is unclear if these organisations are registered in or have a permanent presence in the country:

- [Badayaa](#) – 'Bedayaa Organization works to promote sexual orientations, gender identities, gender expressions and sex characteristics' rights in the Nile Valley area (Egypt & Sudan)¹¹⁴
- Freedom Sudan¹¹⁵
- [Shades of Ebony](#) – 'Shades of Ebony is a group of Sudanese LGBTQI+ individuals and allies in Sudan and Sudanese diaspora. founded in the 21st of January 2017, Shades of Ebony is working on advocating for LGBTQI+ rights as an essential human right.'¹¹⁶

¹¹² CMI, '[Blog from Sudan: The Sudanese Revolution : A fight for LGBTQI+ Rights?](#)', 7 May 2019

¹¹³ Erasing 76 crimes, '[Sudan coup adds uncertainties for LGBTQ+ community](#)', 25 October 2021

¹¹⁴ Bedayaa, '[About us](#)', no date

¹¹⁵ ILGA, '[2020 Annual Report](#)' (page 23), no date

¹¹⁶ Shades of Ebony, '[About](#)', no date

- [Mesahat Foundation](#) – “Mesahat” was established on Sep 5th, 2015 for working on identifying and reducing security risks and eliminate the social obstacles that faced by sexual and gender minorities in the Nile Valley Area (Egypt & Sudan), and to create appropriate means and tools for Queer Activists to carry on their work safely and contribute to creating a nourished and effective Queer societies.’¹¹⁷

10.1.8 However, a UK Parliament research briefing published 21 December 2021 about LGBTI rights in Africa noted ‘Previous groups such as Freedom Sudan and Rainbow Sudan appear to be inactive, not posting material since 2013 and 2015, respectively. In 2012, Rainbow Sudan’s editor had said being gay was a “big taboo and regarded one of the biggest sins possible” amongst religious communities.’¹¹⁸

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¹¹⁷ Mesahat, [‘About’](#), no date

¹¹⁸ UK Parliament, [‘LGBT+ rights and issues in sub-Saharan Africa’](#) (page 47), 21 December 2021

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 ToR, 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:

- Demography
- Legal context
 - Islamic law
 - Gay and Bisexual men
 - Lesbians and bisexual women
 - Trans and intersex persons
- State attitudes and treatment
 - Views of government/public officials
 - Arrests, prosecutions and other violations
 - State protection and assistance
- Societal attitudes and treatment
 - Public opinion
 - Discrimination and other violations
- LGBTI groups

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Version control

Clearance

Below is information on when this note was cleared:

- version **1.0**
- valid from **25 May 2022**

Official – sensitive: Start of section

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

Official – sensitive: End of section

Changes from last version of this note

New guidance.

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