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 basis of claim section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into two main sections: (1) analysis of COI; and (2) COI. These are explained in more detail below.

Analysis

This section analyses the evidence relevant to this note – i.e. the COI section; refugee/human rights laws and policies; and applicable caselaw – by describing this and its inter-relationships, and provides an assessment on whether, in general:

- A person is reasonably likely to face a real risk of persecution or serious harm
- 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
- Claims are 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), dated 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 in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. 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, and
- whether the COI is consistent with and/or corroborated by other sources.

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

Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.

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

**Feedback**

Our goal is to continuously improve our material. Therefore, 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:

- **Independent Advisory Group on Country Information**
- Independent Chief Inspector of Borders and Immigration
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- Globe House
- 89 Eccleston Square
- London, SW1V 1PN
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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](http://www.gov.uk).
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Analysis

Updated: 12 September 2018

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.

1.2 Points to note

1.2.1 This note provides country information and analysis on the general situation of gay men, lesbians, bisexuals, trans and intersex persons, as well as those perceived as such. They are referred hereafter collectively as ‘LGBTI persons’, though the experiences of each group may differ.

1.2.2 Decision makers should also refer to Asylum Instructions: Sexual identity issues in the asylum claim and Gender identity issues in the asylum claim.

2. Consideration of issues

2.1 Credibility

2.1.1 For information on assessing credibility, see the Asylum 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).

2.2 Convention reason(s)

2.2.1 LGBTI persons form a particular social group (PSG) in Iraq within the meaning of the Refugee Convention because they share a characteristic – their sexual and/or gender identity – that cannot be changed or is so fundamental to 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.

2.2.2 Establishing a convention reason alone is not sufficient to be recognised as a refugee. The question to be addressed in each case is whether the particular person will face a real risk of persecution on account of their actual or imputed convention reason.

2.2.3 For further guidance on particular social groups, see the Asylum Instruction on Assessing Credibility and Refugee Status.
2.3 Exclusion

2.3.1 If it is accepted that the person has committed human rights violations, decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must nevertheless be considered on its individual facts and merits.

2.3.2 For further guidance on the exclusion clauses and restricted leave, see the Asylum Instruction on Exclusion: Article 1F of the Refugee Convention and the Asylum Instruction on Restricted Leave.

2.4 Assessment of risk

a. General points

2.4.1 Decision makers must establish whether or not an LGBTI person, if returned to their country of origin, will live freely and openly as such. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. Even if LGBT persons who lived openly would not be generally be at risk, decision makers must consider whether there are reasons why the particular person would be at risk.

2.4.2 If it is found that the person will in fact conceal aspects of his or her sexual orientation/identity if returned, decision makers must consider why the person will do so.

2.4.3 If this will simply be in response to social pressures or for cultural or religious reasons of their own choosing and not because of a fear of persecution, then they may not have a well-founded fear of persecution. But if a material reason why the person will resort to concealment is that they genuinely fear that otherwise they will be persecuted, it will be necessary to consider whether that fear is well-founded.

2.4.4 Decision makers should also consider if there are individual- or country-specific factors that could put the person at risk even if they choose to live discreetly because of social or religious pressures and/or whether the steps taken by them would be sufficient to avoid the risk of persecution. Some will not be able to avoid being known or perceived to be LGBT whilst others will take some steps to conceal but would still be at risk.

2.4.5 For further guidance, see the Asylum Instruction on Sexual Identity Issues in the Asylum Claim and Gender identity issues in the asylum claim.

b. State treatment

2.4.6 Same-sex sexual acts are not specifically prohibited in Iraq. The Penal Code outlaws extra-marital relations for under-18s. One source, the LGBTI rights organisation IraQueer (described as the only LGBTI rights group operating in Iraq), claimed that gender reassignment treatment is illegal, although this could not be corroborated and the law is silent about transgender people (see Legal context).

2.4.7 There is no information about prosecutions for same-sex sexual activity, although one source (the US State Department) states that there are
prosecutions under public indecency and prostitution provisions (see Arrests and prosecutions).

2.4.8 There are reports that LGBTI people experienced discrimination, harassment and violence at the hands of state authorities (see State attitudes and treatment – Discrimination and Violence).

2.4.9 In general, a person living openly as an LGBTI person may be at risk of treatment from the state which, by its nature and repetition, amounts to persecution or serious harm. However, decision makers must consider each case on its merits, with the onus on the person to demonstrate why their particular circumstances would put them at real risk from state actors.

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c. Non-state treatment

2.4.10 LGBTI people are at risk of mistreatment, including execution, at the hands of Daesh (Islamic State), amounting to a real risk of serious harm or persecution (see Treatment by Daesh and the country policy and information note on Iraq: security and humanitarian situation, which covers current areas of Daesh control and activity noting Daesh’s capability and territorial control has been significantly degraded since their mid-2014 peak).

2.4.11 There are some reports that Shia militia target LGBTI people, particularly in Baghdad, although it is not always clear if the perpetrators are Shia militia or ‘armed groups’ more generally, including, for example, criminal gangs. Some perpetrators were unknown or unidentified (see Treatment by unknown or unidentified perpetrators).

2.4.12 Examples of targeting included the circulating of ‘kill lists’ of actual or perceived LGBTI people, abductions, physical attacks, disappearances and killings. A high-profile murder, in July 2017, was that of the actor Karar Nushi, apparently killed because he was perceived to be gay. In July 2016 the senior Shia cleric and militia leader, Muqtada al-Sadr, said that LGBTI people should not be attacked, because they are suffering from psychological problems (Treatment by Shia militia and armed groups).

2.4.13 While there are some reports, it is difficult to quantify violations. IraQueer’s research found that 31% of ‘violations’ against LGBTI people between 2015 and 2018 came from ‘armed groups (militias)’. However, IraQueer’s definition of ‘violations’ was broad and included incidents such as ‘threats’ and ‘verbal abuse’, and it was not clear from the research how many people experienced each of these ‘violations’.

2.4.14 LGBTI issues are taboo in Iraq and not discussed openly, although the Kurdistan Region of Iraq (KRI) is more tolerant than the rest of Iraq (although IraQueer claims that ill-treatment is more likely to be underreported in the KRI). People are generally not open about their sexuality or non-conforming gender identity for fear of bringing ‘shame’ on the family, as well as fear of societal and familial violence, abuse, harassment and discrimination, although such mistreatment, while it does occur, is hard to quantify. The LGBTI ‘community’ is low-profile and not generally open, although there are organisations such as Rasan and IraQueer that support LGBTI issues (see
Societal and familial attitudes, Treatment by family and society and LGBTI community and organisations).

2.4.15 In general, a person living openly as an LGBTI person may be at risk of treatment, which by its nature and repetition amounts to persecution or serious harm from Shia militia groups, family and wider society. However, decision makers must consider each case on its merits, with the onus on the person to demonstrate why their particular circumstances would put them at real risk from non-state actors.

2.5 Protection

2.5.1 Where the person fears persecution/serious harm at the hands of the state, they will not be able to avail themselves of the protection of the authorities.

2.5.2 Criminal justice mechanisms and protection are inadequate and the authorities failed to investigate abuses against LGBTI people (see Official responses to reports of anti-LGBTI violence).

2.5.3 The person will not be able to avail themselves of the protection of the authorities.

2.5.4 For further guidance on assessing the availability or not of state protection, see the Asylum Instruction on Assessing Credibility and Refugee Status.

2.6 Internal relocation

2.4.1 Where the person fears persecution/serious harm at the hands of the state, they will not be able to relocate to escape that risk.

2.4.2 Where the person fears persecution/serious harm from non-state actors or family and community members, they may be able to relocate to another area, if there is not a real risk in the proposed area of relocation, and depending on their circumstances. Decision makers must consult the country policy information note on relocation, documentation and returns.

2.4.3 Decision makers must also take account that in the case of HJ (Iran) the Supreme Court made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation and/or gender identity in the proposed new location for fear of persecution.

2.6.1 For further guidance on internal relocation, see the Asylum Instruction on Assessing Credibility and Refugee Status.

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.

2.7.1 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).
3. **Legal context**

3.1 **Constitution**

3.1.1 Iraq’s current constitution (2005)\(^1\) does not explicitly mention sexual orientation or gender identity. However, it contains the following Articles:

<table>
<thead>
<tr>
<th>Article</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td>Iraqis are equal before the law without discrimination based on gender, race, ethnicity, nationality, origin, color, religion, sect, belief or opinion, or economic or social status.</td>
</tr>
<tr>
<td>15</td>
<td>Every individual has the right to enjoy life, security and liberty. Deprivation or restriction of these rights is prohibited except in accordance with the law and based on a decision issued by a competent judicial authority.</td>
</tr>
<tr>
<td>16</td>
<td>Equal opportunities shall be guaranteed to all Iraqis, and the state shall ensure that the necessary measures to achieve this are taken.</td>
</tr>
<tr>
<td>17: First</td>
<td>Every individual shall have the right to personal privacy so long as it does not contradict the rights of others and public morals.</td>
</tr>
<tr>
<td>29: First (A)</td>
<td>The family is the foundation of society; the State shall preserve it and its religious, moral, and national values.</td>
</tr>
<tr>
<td>29: Fourth</td>
<td>All forms of violence and abuse in the family, school, and society shall be prohibited.</td>
</tr>
<tr>
<td>31: First</td>
<td>Every citizen has the right to health care. The State shall maintain public health and provide the means of prevention and treatment by building different types of hospitals and health institutions.</td>
</tr>
<tr>
<td>34: First</td>
<td>Education is a fundamental factor for the progress of society and is a right guaranteed by the state. Primary education is mandatory and the state guarantees that it shall combat illiteracy.</td>
</tr>
<tr>
<td>37: First (A)</td>
<td>The liberty and dignity of man shall be protected.</td>
</tr>
<tr>
<td>37: First (C)</td>
<td>All forms of psychological and physical torture and inhumane treatment are prohibited. Any confession made under force, threat, or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law.</td>
</tr>
<tr>
<td>38: A</td>
<td>The State shall guarantee in a way that does not violate public order and morality: Freedom of expression using all means.</td>
</tr>
</tbody>
</table>

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\(^1\) Iraqi Constitution, 2005, [url](#)
<table>
<thead>
<tr>
<th>38: C</th>
<th>The State shall guarantee in a way that does not violate public order and morality: Freedom of assembly and peaceful demonstration, and this shall be regulated by law.</th>
</tr>
</thead>
<tbody>
<tr>
<td>39: First</td>
<td>The freedom to form and join associations and political parties shall be guaranteed, and this shall be regulated by law.</td>
</tr>
<tr>
<td>41</td>
<td>Iraqis are free in their commitment to their personal status according to their religions, sects, beliefs, or choices, and this shall be regulated by law.</td>
</tr>
<tr>
<td>42</td>
<td>Each individual shall have the freedom of thought, conscience, and belief.</td>
</tr>
<tr>
<td>46</td>
<td>Restricting or limiting the practice of any of the rights or liberties stipulated in this Constitution is prohibited, except by a law or on the basis of a law, and insofar as that limitation or restriction does not violate the essence of the right or freedom.</td>
</tr>
</tbody>
</table>

### 3.2 Penal Code

3.2.1  The Iraqi Penal Code of 1969[^2] does not specifically prohibit same-sex activity. However, it contains the following Articles:

<table>
<thead>
<tr>
<th>Article</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>394 (1)</td>
<td>Any person who, outside of marriage, has sexual intercourse with a woman with her consent, or commits buggery with a person with their consent, is punishable by a period of imprisonment not exceeding 7 years if the victim is between the ages of 15 and 18. If the victim was under the age of 15, the offender is punishable by a period of imprisonment not exceeding 10 years.</td>
</tr>
<tr>
<td>401</td>
<td>Any person who commits an immodest act in public is punishable by a period of detention not exceeding 6 months plus a fine not exceeding 50 dinars or by one of those penalties.</td>
</tr>
<tr>
<td>402</td>
<td>(1) The following persons are punishable by a period of detention not exceeding 3 months plus a fine not exceeding 30 dinars or by one of those penalties: (a) Any person who makes indecent advances to another man or woman. (b) Any person who assails a woman in a public place in an immodest manner with words, actions or signs. (2) The penalty will be a period of detention not exceeding 6 months plus a fine not exceeding 100 dinars if the offender, having been previously convicted for such offence, reoffends within a year of the date of such conviction.</td>
</tr>
<tr>
<td>404</td>
<td>Any person who himself or through some mechanical means sings or broadcasts in a public place obscene or indecent songs or statements is punishable by a period of detention not exceeding 1 year or by a fine not exceeding 100 dinars.</td>
</tr>
</tbody>
</table>

[^2]: Penal Code, 1969, [url](#)
3.3 Other legislation

3.3.1 According to the US State Department (USSD), in their 2016 human rights report on Iraq (‘the USSD 2016 report’), there were no laws that addressed ‘hate crime’ or anti-discrimination³.

3.3.2 The organisation IraQueer (see 6.1.4), in a report dated June 2018 (‘the IraQueer report’), commented that hormone treatments for those wishing to undergo gender reassignment surgery are ‘not legal’ and that: ‘Undergoing sex change operations are not permitted by the law.’⁴

4. State attitudes and treatment

4.1 Arrests and prosecutions

4.1.1 The USSD 2016 report noted that there was no data on prosecutions for sodomy⁵.

4.1.2 The USSD, in their 2017 human rights report on Iraq (‘the USSD 2017 report’) noted that the authorities ‘relied on public indecency or prostitution charges to prosecute same-sex sexual activity’.⁶

4.2 Discrimination: general

4.2.1 The USSD 2016 report noted: ‘Information was not available regarding discrimination in access to education and health care’.⁷

4.2.2 The UN Assistance Mission in Iraq (UNAMI) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), in a report covering January to June 2017, noted: ‘Members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community continue to face severe discrimination...due to their actual or perceived sexual orientation or gender identity.’⁸ UNAMI continued to document the same situation in its report covering July to December 2017.⁹

4.2.3 The 2017 Australian Department of Foreign Affairs and Trade (DFAT) report assessed that ‘LGBTI individuals in Iraq face a high risk’ of official discrimination ‘on the basis of their sexual orientation and gender identity.’¹⁰

4.3 Discrimination against transgender people

4.3.1 In an interview published in July 2017 with The Daily Beast, a New York-based news organisation, Ahmed Ashour (see 6.1.4) said that ‘police forces

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³ USSD human rights report for 2016 (section 6), March 2017, url
⁴ IraQueer, ‘Fighting for the Right to Life’ (p. 10), June 2018, url
⁵ USSD human rights report for 2016 (section 6), March 2017, url
⁶ USSD human rights report for 2017 (section 6), April 2018, url
⁷ USSD human rights report for 2016 (section 6), March 2017, url
⁸ UNAMI/OHCHR, Human Rights in Iraq, Jan-Jun 2017 (p. 17), December 2017, url
⁹ UNAMI/OHCHR, Human Rights in Iraq, Jul-Dec 2017 (p.16), 8 July 2018, url
¹⁰ DFAT report (p. 22), June 2017, url
and security guards stop individuals at checkpoints who look different, or if they are transgender and going through hormonal treatment, comparing how they look in the present with the picture that looks different on their identification cards [and that he] has video of individuals being humiliated and physically abused in such situations.\(^{11}\)

4.3.2 The IraQueer report commented: ‘Members of the trans community, in particular, face extreme danger simply by existing. Especially those who choose to undergo hormone treatment and show physical changes...People who manage to undergo the surgery outside of Iraq face the difficulties in obtaining legal documents that reflect their post surgical identity.’\(^{12}\)

### 4.4 Violence

4.4.1 A joint report by the International Gay and Lesbian Human Rights Commission (IGLHRC) (now called OutRight International), MADRE (a global women’s rights movement) and the Organization of Women’s Freedom in Iraq (OWFI) (‘When Coming Out is a Death Sentence’), dated November 2014, commented: ‘Due to the close co-operation between the security forces and the sectarian militias, the police is a source of threat, not protection for persecuted LGBT individuals in Iraq. In one case, the police raped a gay man whose father had left him with the police, in effect becoming a rogue force executing tribal and militia orders.’\(^{13}\)

4.4.2 A report by the International Women’s Human Rights (IWHR) Clinic, IraQueer (an Iraqi LGBT not-for-profit group), MADRE and OutRight Action International, (‘Dying to be free’), undated but prepared ahead of the UN Human Rights Committee review of Iraq of October 2015, commented that ‘...security forces and government officials themselves commit anti-LGBT discrimination and violence’.\(^{14}\)

4.4.3 The 2017 DFAT report assessed that ‘LGBTI individuals in Iraq face a high risk’ of official violence ‘on the basis of their sexual orientation and gender identity.’\(^{15}\)

4.4.4 For their June 2018 report, IraQueer interviewed 257 ‘LGBT+’ individuals, 11 government officials/employees, 16 religious leaders and 201 members of Iraqi society, most of whom were based in Iraq, in addition to consulting several publications. They found that 22% of the ‘violations’ committed against LGBT+ people between 2015 and 2018 came from the Government. These ‘violations’ were listed as violence, threats, killings, sexual assault, verbal abuse, physical abuse, sexual abuse and physical humiliation\(^{16}\).

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12 IraQueer, ‘Fighting for the Right to Life’ (p. 10), June 2018, url
13 IGLHRC, MADRE and OWFI, ‘When Coming Out is a Death Sentence’ (p. 8), November 2014, url
14 IWHR Clinic, IraQueer, MADRE and OutRight Action Int’l, ‘Dying to be Free’ (p. 8), undated, url
15 DFAT report (p. 22), June 2017, url
16 IraQueer, ‘Fighting for the Right to Life’ (pp.12-14, 21), June 2018, url
4.5 Official responses to reports of anti-LGBTI violence

4.5.1 The report ‘Dying to be Free’ stated:

‘State security forces not only fail to investigate acts of discrimination and violence against LGBT people; they stand by and allow murderous hate violence to occur, fully aware of what is happening...The State’s denial of access to justice for victims of these human rights violations encourages further discrimination and acts of violence, including those committed by health professionals and others who capitalize on LGBT peoples’ vulnerable status...[T]hrough their unwillingness to investigate or pursue even the most open of perpetrators, Security Forces encourage anti-LGBT human rights violations including torture and killings.’\textsuperscript{17}

4.5.2 The USSD 2016 report stated that ‘criminal justice mechanisms [do not] exist to aid in the prosecution of crimes motivated by bias against members of the LGBTI community’.\textsuperscript{18}

4.5.3 The USSD 2017 report noted: ‘Despite repeated threats and violence targeting individuals, the government failed to identify, arrest, or prosecute attackers or to protect targeted individuals.’\textsuperscript{19}

4.5.4 According to the 2017 DFAT report, ‘the Government does little to protect the LGBTI community’ and that ‘LGBTI individuals often do not report cases of abuse because of concerns they will be subjected to further victimisation or acts of discrimination.’\textsuperscript{20}

4.5.5 The Independent, in August 2016, reported that ‘the state often turns a blind eye to the horrors non-conforming Iraqis face if outed’.\textsuperscript{21}

4.5.6 The IraQueer report dated June 2018 stated that ‘despite the public and horrific nature of these crimes [against LGBT people], the Iraqi government and its legal system have failed to address them. No one has been held accountable for torturing and killing members of the LGBT+ community or those who are perceived to be members’.\textsuperscript{22}

4.5.7 The June 2018 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq reported that: ‘The Government indicated that in response to these killings [of actual or perceived LGBTI men and boys, and LGBTI activists and supporters] a Committee had been established dedicated to this issue. It is, however, unclear to the Special Rapporteur which results, if any, it has yielded.’\textsuperscript{23}

\textsuperscript{17} IWHR Clinic, IraQueer, MADRE and OutRight Action Int’l, ‘Dying to be Free’ (p. 8), undated, url
\textsuperscript{18} USSD human rights report for 2016 (section 6), March 2017, url
\textsuperscript{19} USSD human rights report for 2017 (section 6), April 2018, url
\textsuperscript{20} DFAT report (pp. 21-22, 26), June 2017, url
\textsuperscript{21} Independent, ‘Iraq’s only openly gay activist’, 16 August 2016, url
\textsuperscript{22} IraQueer, ‘Fighting for the Right to Life’ (p. 9), June 2018, url
\textsuperscript{23} UN Human Rights Council, Report of the Special Rapporteur (para 45), 5 June 2018, url
5. Non-state attitudes and treatment

5.1 Treatment by Daesh

5.1.1 According to the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)’s 2017 survey of sexual orientation laws:

‘The Daesh (or ISIS / ISIL) held areas of northern Iraq and northern Syria, are known to target men and women on account of their gender expression, gender identity and their sexual orientation. The Nusr [‘Victory’ in Arabic] website, which claims to be the website of the Islamic Caliphate, has a section on Legal Jurisprudence (evidence based rules and the Penal Code). One of the pages under this section is dedicated to “Punishment for Sodomy”, which states: “The religiously-sanctioned penalty for sodomy is death, whether it is consensual or not. Those who are proven to have committed sodomy, whether sodomizer or sodomized, should be killed.”’\(^{24}\)

5.1.2 According to the 2017 DFAT report: ‘ISIL has also targeted homosexual men on the basis of their sexual orientation and gender identity. Open-source reporting highlights examples of individuals in ISIL controlled areas accused of sodomy or homosexuality being thrown from buildings and beheaded...The risk [to LGBTI people] is higher in ISIL-controlled areas.’\(^{25}\)

5.1.3 The USSD 2017 report stated: ‘ISIS continued to publish videos depicting executions of persons accused of homosexual activity that included stoning and being thrown from buildings.’\(^{26}\)

5.1.4 IraQueer, in their June 2018 report, found that 10% of the violations committed against ‘LGBT+’ people between 2015 and 2018 came from Daesh. See 4.3.3. for more information about IraQueer’s methodology\(^{27}\).

5.2 Treatment by Shia militia and armed groups

5.2.1 Sources are not always clear on the distinction between the Shia militia specifically and ‘armed groups’, which may be criminal gangs.

5.2.2 The report ‘When Coming Out is a Death Sentence’, dated November 2014, commented:

‘LGBT Iraqis have also faced organized, deadly persecution instigated, inspired, or tolerated by state actors and members of militia...On May 15, 2014, a list was published by the Brigades of Wrath (Saraya al-Ghadhab), the military arm of the League of the Righteous on signs around Baghdad with the names and neighborhoods of 24 “wanted” persons, 23 accused of the “crime” of homosexual acts and one man accused of the “crime” of having long hair.’\(^{28}\)

\(^{24}\) ILGA, ‘State-sponsored homophobia 2017’ (p. 128), May 2017, url
\(^{25}\) DFAT report (p. 22), June 2017, url
\(^{26}\) USSD human rights report for 2017 (section 6), April 2018, url
\(^{27}\) IraQueer, ‘Fighting for the Right to Life’ (pp.12-14, 21), June 2018, url
\(^{28}\) IGLHRC, MADRE and OWFI, ‘When Coming Out is a Death Sentence’ (p. 8), November 2014, url
5.2.3 The USSD 2016 report stated ‘In July, UNAMI [United Nations Assistance Mission in Iraq] reported a young man had been abducted and killed in Baghdad because of his sexual orientation. Sources reported the abductors were known members of armed groups. Some armed groups also started a campaign against homosexual persons in Baghdad, UNAMI reported at least three more LGBTI persons had disappeared since July.’

5.2.4 The 2017 USSD report noted: ‘Local contacts reported that militia groups drafted LGBTI “kill lists” and executed men perceived as gay, bisexual, or transgender.’

5.2.5 An article in Middle East Eye (MEE), dated April 2018, described the Shia militia as ‘the other primary source [along with Daesh] of violence against LGBT people in Iraq’. The article continued:

‘Although homosexuality was illegal under Saddam Hussein, his overthrow by the US-led invasion in 2003 has seen the growth of armed groups with financial and ideological links to the Islamic Republic of Iran, a country responsible for more than 5,000 executions of LGBT people since 1979.

‘According to human rights organisations, the armed groups have harassed and attacked LGBT people (or those perceived to be LGBT) and in at least one instance in 2014 the Asa’ib Ahl al-Haq organisation released a wanted list with the names of suspect gay men.

‘In 2012, armed groups, primarily in Baghdad, started a campaign against people perceived to be “emo,” referring to usually young men perceived to be effeminate and sexually ambiguous. The UN Assistance Mission for Iraq reported that around 56 people were murdered for being “emo” as a result…’

5.2.6 The USSD noted: ‘In July [2016], Shia cleric Muqtada al-Sadr publicly stated that homosexuals should not be attacked as they suffered from psychological problems’, a statement that Human Rights Watch (HRW) and Middle East Eye (MEE) also mentioned.

5.2.7 Several sources reported the torture and murder of the actor Karar Nushi in Baghdad in July 2017, apparently because of his ‘good looks’. In an interview with The Daily Beast, Ahmed Ashour (see 6.1.4) said he was ‘aware of seven people being killed this past January [2017] for similar reasons to Karar’s. Those seven people were rumored to be on a list of 100 names of individuals who were targeted by an armed group … One of the main armed groups in Baghdad, Ashour said, had announced a partnership with the government in the name of fighting ISIS, and this group was one of

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29 USSD human rights report for 2016 (section 6), March 2017, url
30 USSD human rights report for 2017 (section 6), April 2018, url
31 MEE, ‘The world is changing’, 13 April 2018, url
32 USSD human rights report for 2016 (section 6), March 2017, url
33 HRW World Report 2017 – Iraq, January 2017, url
34 MEE, ‘The world is changing’, 13 April 2018, url
37 Iraqi News, ‘Actor, model found brutally murdered in Baghdad’, 3 July 2017, url
the main groups organizing the killing campaigns of gay men and feminine men perceived to be gay.'

5.2.8 The IraQueer report of June 2018 commented that groups ‘like’ Asa’eb Ahl Al-Haq (a Shia militia) organise ‘killing campaigns’, and referred to the 100+ person list ‘The latest campaign was reported to have taken place in January of 2017 when more than a hundred names were put on a list warning those listed to either change or be killed. Organizations like IraQueer and Helem have been directly in touch with several individuals who were on the list and needed help in early 2017. Several of those people also knew other queer individuals who were on the list and killed for being LGBT.’

5.2.9 An article in Al-Monitor, dated July 2017, noted: ‘Gangs and killers have found a safe haven in Iraq to commit their crimes, and threatening or killing members of the LGBT (lesbian, gay, bisexual and transsexual community) is not new.’

5.2.10 IraQueer, in their June 2018 report, found that 31% of the violations committed against ‘LGBT+’ people between 2015 and 2018 came from ‘armed groups (militias)’. See 4.3.3 for more information about IraQueer’s methodology.

5.3 Treatment by unknown or unidentified perpetrators

5.3.1 The UNAMI and OHCHR report covering January to June 2017 stated:

‘On 13 January [2017], the body of a man was found at a dumpsite in Binouk neighbourhood in Baghdad. The body bore stab wounds to the stomach and genitals. The victim was allegedly killed because of his perceived sexual orientation. On 28 January, the body of a 22-year-old man was also found with stab wounds in Suq al-Shiyoukh district, 30 km southeast of Nasiriya. Information received by UNAMI/OHCHR indicated that he had also been killed because of his perceived sexual orientation. On 28 February, a tribal leader was shot and killed by unidentified gunmen in Al-Zubair district, Basra, near al-Zubair Bridge. The victim was shot several times in the head. The killing followed the posting on social media of a video that allegedly showed the victim engaged in sex with another man. The man seen in the video with the victim allegedly fled Al-Zubair district after his house was burned by unknown persons.

‘On 19 March, two youths were killed by unknown perpetrators in the Khamsameel area of Basra city, allegedly for their perceived sexual orientation. The two males, both about 17 years old, were found with gunshot wounds to the head. A letter was allegedly found at the scene that stated, “To Basra’s people, we will kill all men who have long hair and dress like women.” On 10 April, the body of a 22-year-old man was found in Maysan, al-Qadisya quarter, Amara city. The body had multiple stab wounds and had been mutilated, including the genitals. The nature of the injuries and

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39 IraQueer, ‘Fighting for the Right to Life’ (p. 9), June 2018, url
41 IraQueer, ‘Fighting for the Right to Life’ (pp.12-14, 21), June 2018, url
other information received suggest that the man was killed due to his sexual orientation, whether real or perceived.\textsuperscript{42}

5.3.2 The June 2018 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq ‘…received information [about] attacks, including threats, physical assaults and killings, on men and boys on the basis of their actual or perceived sexual orientation or gender identity as well as on activists and organizations supporting the human rights of LGTBI persons’, although did not identify the alleged perpetrators. The report added: ‘There is further fear that with the military victory over ISIL, attention may again turn towards those perceived as engaging in “immoral” activities and attacks on the LGBTI community may increase.’\textsuperscript{43}

5.4 Societal and familial attitudes

5.4.1 An April 2018 article in MEE stated that, in Iraq, ‘open discussion around sexual difference is both rare and discouraged’. The article cited an anonymous Iraqi:

“Someone who is gay can’t be open about it to his family – in the eyes of his family, this would mean that he has brought shame on them,”...

“Because of this, they would want to get rid of him, especially if they are conservative and from a tribal background. This is what happened to me...”\textsuperscript{44}

5.4.2 The same article described Sulamaniyah in the Kurdistan Region of Iraq (KRI) as having 'long held a reputation as the most socially liberal city in Iraq'. The article noted that:

‘...while LGBT individuals still face much social pressure [in Sulamaniyah], there is a space that does not exist in other parts of the country.

‘The KRG [Kurdistan Regional Government], as a whole, has generally been perceived as more secular and socially liberal than the Arab-majority regions of Iraq - although not on all issues, with the majority of Kurdish women facing FGM [Female Genital Mutilation], for example. Overall, though, the influence of socially conservative religious organisations and armed groups is less pronounced.

"Even if you compare the situation of LGBTs themselves, it's better and safer in Kurdistan. So many people just run away from the rest of the cities and they come to the north because it’s safer," said [Ayaz] Shalal [deputy director of the human rights organisation Rasan]. "That doesn’t mean it's safe. At all. But it's safer.

"Compared to the rest of Iraq, they don’t get their heads smashed in the street."\textsuperscript{45}

\textsuperscript{42} UNAMI/OHCHR, Human Rights in Iraq, Jan-Jun 2017 (p. 17), December 2017, \url{url}
\textsuperscript{43} UN Human Rights Council, Report of the Special Rapporteur (para 45), 5 June 2018, \url{url}
\textsuperscript{44} MEE, ‘The world is changing’, 13 April 2018, \url{url}
\textsuperscript{45} MEE, ‘The world is changing’, 13 April 2018, \url{url}
5.4.3 The IraQueer report dated June 2018 also commented on differences between the KRI and the rest of Iraq. The report found that, of the violations committed against ‘LGBT+ people’, 32% occurred in the KRI, 42% in central Iraq and 25% in southern Iraq. The nature of the violations varied in location: most ‘public violence’ occurred in Baghdad and surrounding cities, whereas (according to the report) it was more likely to be underreported in the KRI because of ‘heavy police surveillance of citizens, and the regional government’s desire to maintain a friendly reputation among the international community’. In the south, violations were most likely to come from the family. See 4.3.3 for more information about IraQueer’s methodology.

5.4.4 Niqash, a website reporting on politics, media and culture in Iraq noted, in an undated, but post June 2017 article, about the KRI:

'It is just extremely rare for them [gay and lesbians] to declare their sexual orientation openly. Most use anonymous avatar-style pictures and pseudonyms to participate in online communities.

‘However more recently, there seems to have been a shift in attitudes, albeit a minor one. There are still many misconceptions about what being gay means, but a more open conversation appears to be starting in some sectors of the local community. For example, a number of better known locals have started speaking about homosexuality openly.

"I am not a homosexual, but I support them with all my strength,” says Wahid Nazad, a singer from Iranian Kurdistan who now lives in Erbil. “As a defender of their rights, I am always attacked and often insulted - but I don’t care.”

5.4.5 The IraQueer report also claimed that the media played a ‘significant role in promoting violence’ against ‘LGBT+ people’. The June 2018 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her mission to Iraq ‘…received information on incitement to hatred through traditional and social media.’

5.5 Treatment by family and society

5.5.1 The report ‘When Coming Out is a Death Sentence’, dated November 2014, commented: ‘The most common threats to gender non-conforming Iraqis come from their families, communities, and tribes. The LGBT individuals interviewed for this report identified close family members as being behind often lethal threats. More than one pointed out that these family members believed they acted to defend tribal values of family honor.

5.5.2 The USSD 2017 report observed: ‘LGBTI persons often faced abuse and violence from family and nongovernmental actors. In addition to targeted violence, LGBTI persons remained at risk for honor crimes. For example, on

46 IraQueer, ‘Fighting for the Right to Life’ (p. 15), June 2018, url
47 Niqash, The Secret Lives Of Iraqi Kurdistan’s Gay Community..., undated, url
48 IraQueer, ‘Fighting for the Right to Life’ (p. 16), June 2018, url
49 UN Human Rights Council, Report of the Special Rapporteur (para 45), 5 June 2018, url
50 IGLHRC, MADRE and OWFI, ‘When Coming Out is a Death Sentence’ (p. 3), November 2014, url
March 1 [2017], a close family member killed a man purported to be one of two men shown in a gay-sex video circulated online.\(^{51}\)

5.5.3 According to the 2017 DFAT report:

‘Significant societal discrimination is associated with sexual orientation and gender identity in Iraq. Societal discrimination is pervasive and many LGBTI individuals consequently do not identify publicly. LGBTI individuals that do identify publicly often face abuse and violence from within their families and communities. LGBTI individuals often do not report cases of abuse because of concerns they will be subjected to further victimisation or acts of discrimination…

‘Overall, DFAT assesses that LGBTI individuals in Iraq face a high risk of…societal discrimination and violence on the basis of their sexual orientation and gender identity…DFAT further assesses that an LGBTI individual is unlikely to be able to live an open life in Iraq.’\(^{52}\)

5.5.4 Freedom House, in their 2018 human rights report (covering events in 2017), noted that LGBTI people risk violence if they are open about their identity\(^{53}\).

5.5.5 The USSD 2017 report observed: ‘Societal discrimination in employment, occupation, and housing based on sexual orientation, gender identity, and unconventional appearance was common…’\(^{54}\)

5.5.6 The IraQueer report dated June 2018 alleged: ‘Several individuals have been denied employment or have been fired for looking “too feminine” or for refusing to engage in sexual practices with their employers.’\(^{55}\)

5.5.7 Freedom House, in their 2018 report, commented: ‘Openly LGBT (lesbian, gay, bisexual, and transgender) Iraqis are unable to enjoy equal political rights in practice due to harsh societal discrimination that includes the threat of violence.’\(^{56}\)

5.5.8 In an interview with The Daily Beast, Ahmed Ashour (see 6.1.4) said:

“Because of cultural stereotypes…feminine gay men are seen as people who have stopped short of transitioning to female. Trans women also suffer because culturally they are seen as men who have chosen to give up their male “power” to become a woman…

“Lesbians face double discrimination as women and lesbians,”…“They are often invisible, either forced into marriage or if not, kept ‘protected’ within their homes by the male figures in their families. They do not have the space to explore who they are or reach out to others.”\(^{57}\)

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\(^{51}\) USSD human rights report for 2017 (section 6), April 2018, [url](#)
\(^{52}\) DFAT report (pp. 21-22), June 2017, [url](#)
\(^{53}\) Freedom House report 2018 (section B), January 2018, [url](#)
\(^{54}\) USSD human rights report for 2017 (section 6), April 2018, [url](#)
\(^{55}\) IraQueer, ‘Fighting for the Right to Life’ (pp. 9-10), June 2018, [url](#)
\(^{56}\) Freedom House report 2018 (section B), January 2018, [url](#)
\(^{57}\) Daily Beast, ‘Murdered for ‘Looking Gay’, 7 June 2017, [url](#)
5.5.9 An article in Al-Monitor, dated June 2017, observed that LGBT people in the Kurdistan area ‘face regular abuse from family, friends and society in general.’

5.5.10 The IraQueer report also stated ‘Locally, trans people face life-threatening circumstances caused from law enforcement, families, neighbors, and even strangers. They face sexual and other abuses. Together with feminine men who are perceived to be gay, they are often the victims of the most visible kinds of hate crimes, such as public executions and harassment. The lesbian community, on the other hand, tends to be extremely invisible.’

5.5.11 IraQueer found that 27% of the violations committed against ‘LGBT+’ people between 2015 and 2018 came from the family and 10% came from ‘others’ (not ISIS, armed groups or the Government). See 4.3.3. for more information about IraQueer’s methodology.

6. LGBTI community and organisations

6.1.1 In an interview with The Daily Beast, Ahmed Ashour (see 6.1.4) described the LGBTI ‘community’: “Everyone maintains a really low profile. Their social circles are small. The social circles in the Kurdish region are a bit bigger, but does not mean violence is not happening there also’ and that people are ‘just trying to hide their sexuality as much as they can…”

6.1.2 The report ‘When Coming Out is a Death Sentence’, dated November 2014, commented that ‘...the isolation of LGBT Iraqis is magnified by the lack of support, from an almost non-existing LGBT network, over the charities and families that exclude them, to the lack of more formal state protection mechanisms such as shelters and law enforcement. A single non-governmental women’s rights organization has offered protection to persecuted LGBT Iraqis. Other progressive organizations keep their distance, one international NGO worker surmised, because it is “dangerous for NGO activists to deal with LGBT [persons] as they themselves would be stigmatized and threatened.”

6.1.3 The Independent, in an article dated August 2016, reported that: ‘As recently as 1995, Saddam Hussein created a paramilitary group with the sole purpose of identifying, torturing and executing LGBT+ individuals, as well as women accused of adultery, and the memory - as well as the taboo - is still fresh for many. Post-Saddam, the gay community began tentatively organising parties and meet-ups in gay-friendly spaces, but militia attacks have increased again in recent years, driving the community further underground.’

6.1.4 The source also stated:

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58 Al-Monitor, ‘LGBT community struggles’, 16 June 2017, [url]
59 IraQueer, ‘Fighting for the Right to Life’ (p.11), June 2018, [url]
60 IraQueer, ‘Fighting for the Right to Life’ (pp.12-14, 21), June 2018, [url]
61 Daily Beast, ‘Murdered for ‘Looking Gay’’, 7 June 2017, [url]
62 IGLHRC, MADRE and OWFI, ‘When Coming Out is a Death Sentence’ (p. 9), November 2014, [url]
63 Independent, ‘Iraq’s only openly gay activist’, 16 August 2016, [url]
‘[Ahmed] Ashour is the founder and leading voice of IraQueer, the only LGBT+ rights awareness organisation operating in Iraq, which is forced to carry out most of its work anonymously. The growing network of activists, most using synonyms rather than their real names, is a precious resource for Iraq’s gay community, which remains almost completely underground for fear of dying at the hands of armed vigilante gangs, rogue police officers, or family members unable to accept them.’

6.1.5 The USSD 2016 report noted that there were no gay pride marches or gay rights advocacy events in Iraq in 2016. There is no mention of such events in the USSD report for 2017.

6.1.6 The same source observed: 'Due to stigma, intimidation, and potential harm, including violent attacks, LGBTI organizations did not operate openly.' According to the 2017 DFAT report: 'Organisations focused on supporting the LGBTI community do not operate openly.' The IraQueer report dated June 2018 claimed that there were 'no safe spaces for LGBT+ individuals in the country.'

6.1.7 An article in Al-Monitor, dated June 2017, observed: 'It is not clear what the size of the LGBTI community is in the Kurdistan region because most members hide their sexual identity and have no organization to represent them.'

6.1.8 The USSD 2016 report said: ‘NGOs established shelters for individuals who feared attacks and continued to accommodate victims. They periodically received threats and relocated shelters for security reasons. Community activists reported that violence and intimidation continued.’

6.1.9 The Washington Blade, an LGBTI publication, reported that the Rasan Organization, a Kurdish human rights organization, launched an LGBT campaign in Sulamaniyah, Kurdistan in November 2016 by painting murals on school walls, although the campaign was said to be met with a ‘backlash’ in the form of verbal and written aggression.

6.1.10 An article by MEE dated April 2018 also referred to the Rasan and their mural campaign. Rasan were described as ‘founded in 2004 as an organisation focusing primarily on women’s rights... [and] eventually adopted LGBTQI (adding queer and intersex) rights under its remit.’ The article described the mural campaign as:

‘...not the first action of this nature they have engaged in, but it is the largest in scale so far, an indication, said [Ayaz] Shalal [deputy director of Rasan], that attitudes are changing for the better…

64 Independent, ‘Iraq’s only openly gay activist’, 16 August 2016, url
65 USSD human rights report for 2016 (section 6), March 2017, url
66 USSD human rights report for 2017 (section 6), April 2018, url
67 USSD human rights report for 2016 (section 6), March 2017, url
68 DFAT report (pp. 21-22), June 2017, url
69 IraQueer, ‘Fighting for the Right to Life’ (p.15), June 2018, url
70 Al-Monitor, ‘LGBT community struggles’, 16 June 2017, url
71 USSD human rights report for 2016 (section 6), March 2017, url
‘He said Rasan reached out to community leaders and had managed to corral a support base that included members of the Kurdistan Regional Government's (KRG) Ministry of Education, lawyers, doctors and religious figures.

‘He added that Rasan "currently has two imams who are involved with us and they are working on releasing fatwas in support of LGBT".73

6.1.11 The same article also stated:

‘Despite the difficulties that LGBT people face, both Rasan and other pro-LGBT groups such as IraQueer have managed to establish small networks and hold (usually clandestine) meetings where LGBT Iraqis can discuss their sexuality.

‘"The biggest thing you need for any meeting of LGBT people is a safe place," one Iraqi, who wished to remain anonymous, told MEE.

‘"At the moment it is very difficult to find a place for such meetings, because of the dangerous situation in Iraq at the moment.

‘"Because of this, we hold small meetings from time to time. They are held in private locations far from either the militias or the state."

‘"Despite the hostility they often face, he said that they usually managed to attract [sic] a reasonable number of both LGBT and non-LGBT people who were interested in the issue.

‘"The majority of people attending these meetings have previously been persecuted in our society. There are also some secularists and allies of LGBT people, especially Communists," he said.74

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73 MEE, ‘The world is changing’, 13 April 2018, url
74 MEE, ‘The world is changing’, 13 April 2018, url
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
  - Constitution
  - Penal Code
  - Other legislation
- State attitudes and treatment
  - Arrests and prosecutions
  - Discrimination
  - Violence
  - Official responses to reports of anti-LGBTI violence
- Non-state attitudes and treatment
  - Treatment by Daesh
  - Treatment by Shia militia
  - Treatment by other armed groups and criminal gangs
  - Treatment by family and society
- LGBTI community and organisations

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New CPIN