



Home Office

Home Office Response to IAGCI Review India (Sexual Orientation and Gender Identity) CIG, July 2014

20 April 2015

Review Conclusions/ Recommendations		Response	Home Office Comments
1.	<p>1.2 Summary of findings</p> <p>Areas for improvement: Information on harassment by police has been added but is not extensive as it could be (see suggestions in section 2.2 below).</p>	Partially Accepted	Please see our comment under 12. and 13. below.
2.	<p>1.2 Summary of findings</p> <p>More information could be included on transgender persons, in particular in the section on legal rights (2.1), attitudes of State authorities (2.2) (particularly police violence against transgender persons), and societal treatment (2.3). See specific comments in each section below.</p>	Partially Accepted	CPIT is not aware of asylum applications by transgender people from India in recent years, and the weight we have allocated in the CIG to each LGBT 'sector/sub-group' tends to take that into consideration.
3.	<p>1.3 Quality and balance of sources</p> <p>The source "Immigration and Refugee Board of Canada, India: Update to IND32120.E of 25 June 1999 on the situation of homosexuals (26 June 1999-April 2004), 13 May 2004, IND42507.E: http://www.refworld.org/docid/41501c1e2a.html, accessed May 2014" reporting on the enforcement of section 377 of the Penal Code between 1999 from 2004 is outdated.</p>	Accepted	We will correct this in the next iteration of the CIG.
4.	<p>1.3 Quality and balance of sources</p> <p>Minor notes on the footnotes</p>	Accepted	
5.	<p>Legal information pertaining to transgender persons</p> <p>The section could refer to the State's Police Act amended in April 2011 by the Karnataka government introducing a section 36A to regulate "undesirable activities" and keep a record of "eunuchs" in every police jurisdiction to prevent them from committing "unnatural offences."</p>	Partially Accepted	Section 36A of the Karnataka Police Act is insulting to transgender people. But it applies only in one state and, in any case, may no longer be implementable following the Supreme Court's directions in NLSA v. Union of India.

6.	<p>Legal information pertaining to transgender persons</p> <p>The section could also make a specific reference to the Supreme Court judgment in National Legal Services Authority (NALSA) v. Union of India and Others which ruled that..</p>	Not Accepted	Reference to NLSA v. Union of India & Ors is at paragraph 2.1.16 (although the actual case name is only mentioned in the footnote.)
7.	<p>The reviewer has provided a quote from HRW on the implementation of the judgment, dated February 2015.</p>	Partially Accepted	We will comment on implementation when the CIG is updated. This information was not available at the time of publication.
8.	<p>2.1 Attitudes of and treatment by State authorities</p> <p>The Asia ILGA source also mentions that despite these [gay pride] parades, many in the community feel that sensitising people towards what are not perceived as normative sexual identities is still a long walk.</p>	Partially Accepted	Although “sensitising people...” was tagged on to this sentence by ILGA Asia, it is extraneous to the attitudes of state authorities and also does not relate only to gay pride parades. We believe this aspect has been covered in the CIG under ‘Societal Treatment and Attitudes’.
9.	<p>Police treatment</p> <p><i>Earlier this month, 13 people were arrested in Hassan in Karnataka by the police under section 377...</i></p>	Accepted	Information that became available in December 2014 showed that many people had been arrested in 2014, in several states, under Section 377. This will, of course, be covered in the next update.
10.	<p>Police treatment</p> <p>The ILGA source also mentions specific treatment of lesbians in prisons... <i>Even in the Pinki Pramanik case...</i></p>	Partially Accepted	We will consider to what extent this single case is still broadly representative.

11.	Police treatment This section could include more information on treatment of transgender persons...	Partially Accepted	The source quoted was published later than the CIG. We prefer not to include quotes with vague meaning, or lengthy quotes about single cases that may not be representative.
12.	2.2 Societal treatment and attitudes The following article from Deutsche Welle considers...	Accepted	Will consider for inclusion in the next update
13.	2.2 Societal treatment and attitudes <i>India: Enforce Ruling Protecting Transgender People...</i>	Accepted	Will consider for the next update
14.	2.3 (i) Access to health care While a reference to difficulties for transgender persons who were HIV positive in receiving healthcare is made in 2.4.2, this could be elaborated upon ... The NUJS Law Review "Crystallising Queer Politics-The Naz Foundation Case and Its Implications For India's Transgender Communities [2009] (see sources below) could be cited for a description on discrimination and other issues faced by transgender persons in India.	Partly Accepted	Will consider whether further information on this particular point is necessary. Some content in the NUJS article might no longer be applicable following NLSA v. Union of India.
15.	2.3 (ii) Access to employment Para. 2.4.6 of the CIG cites a survey by the Labour Bureau in 2010 which showed that only 17 per cent of the Indian workforce is in formal, salaried employment; more than 70 per cent of all working people are self-employed as casual workers. This does not specifically refer to LGBTI persons or suggest how LGBTI persons may be disproportionately affected by low unemployment.	Not Accepted	The fact that over 70% of the workforce is not in formal, salaried employment is very relevant in considering access to employment for <u>all</u> population groups.
16.	2.3 (ii) Access to employment <i>Jobs are denied to eunuchs due to their gender...</i>	Partly Accepted	We were unable to access this source, so are not able to assess what the information was based on.

17.	3. Recommendations for sources	Accepted	We are grateful for signposts to additional sources, which will all be considered for the next update.
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