



Home Office

## **Home Office Response to IAGCI Review**

Uganda (Sexual Orientation and Gender Identity) CIG, August 2014

20 April 2015

<b>Review Conclusions/ Recommendations</b>		<b>Response</b>	<b>Home Office Comments</b>
1.	<p><b>1.1. Purpose of the Review</b></p> <p>This review provides a commentary on the <i>Country Information and Guidance (CIG) for Uganda: Sexual Orientation and Gender Identity from August 2014</i> produced by the Home Office (UK Border Agency).</p>	n/a	The UK Border Agency was disbanded in 2013. References can/should just be to “the Home Office”.
2.	<p><b>General Presentation/Layout</b></p>	n/a	<p>We found the presentation of this review (use of headers etc.) very helpful and suggest this forms the basis for a template.</p> <p>Our only suggested amendment would be to make the specific recommendations clearer (e.g. through the use of bold text).</p>
3.	<p><b>2.1 Summary of Findings</b></p> <p>A more in—depth perspective on lesbians, transgender and intersex persons should be included, with subheadings for each group.</p>	Partially Accepted	We will look to include more detail on the sub-groups identified including subheadings where relevant, in particular lesbians. This would be subject to an assessment of the types of asylum claims received.
4.	<p><b>2.1 Summary of Findings</b></p> <p>The legal section could be improved upon by including information on other laws (recommendations on other laws to include were made in the review of the Ugandan 2011 COI report in the 2013 Evaluation of LGBTI issues in the Home Office’s Country of Origin Reports), including laws relating to NGOs and on sexual relations between consenting adults...</p>	Accepted	We will add relevant laws in the next iteration.
5.	<p><b>2.1 Summary of Findings</b></p> <p>It is important to include information on charges and convictions (provided in other sections of the CIG relating to State treatment) in the legal section to demonstrate how the laws are applied in practice.</p>	Accepted	We will move information on the application of the law in practice to a renamed subsection under the legal framework.

6.	<p><b>2.1 Summary of Findings</b></p> <p>... when references to Bills are made, the COI should include up-to-date information on whether the Bill has been enacted...</p>	Accepted	Our standard practice is to include information on whether a bill has been enacted where this information is available.
7.	<p><b>2.1 Summary of Findings</b></p> <p>... in some instances where only limited information is provided with a link for further details, it would be useful to outline the main findings directly in the CIG.</p>	Accepted	In general where we are relying on information from which we derive guidance we will include this in the narrative of the CIG.
8.	<p><b>3.1 Legal framework</b></p> <p>The title 'pre-2014 legal rights'(section 2.1) should be amended to 'applicable legal framework' or 'The Penal Code Act of 1950', as it is the legal framework applicable (the Anti-Homosexuality Bill was annulled in August 2014, as noted in the CIG).</p>	Accepted	We will rename the section in the next iteration.
9.	<p><b>3.1 Legal framework</b></p> <p>[Provide] ... headings for different categories among LGBTI groups, including a distinction between LGB and transgender groups under the legal rights section.</p>	Accepted	See response at 3. above.
10.	<p><b>3.1 Legal framework</b></p> <p>A cross-reference is made to Annex C for more details on the AHA. The cross-reference should be to Annex B as Annex C relates to case-law.</p> <p>A good description of the context running up to the passing of the bill is provided through the cited sources, including the original text of the bill omitted from the Act that was signed into law, reference to the Ugandan Constitutional Court annulment and motion by the Attorney General to appeal the decision. An update on this appeal should be provided in the update to this COI report</p>	Accepted	We will correct the cross reference (should the annex be kept – see comments on Annex below) and provide updated material on the AHA in the next iteration.

11.	<p><b>3.1 Legal framework</b></p> <p>The law is cited directly in 2.2.8-2.2.9, which is good practice. It would be better to cite these relevant offence provisions first, before the BBC main aspects (2.2.6) as the latter is more precise and a primary source. Moreover, the 2.2.6 BBC source cited states that “homosexual acts are already illegal in Uganda but clarifies that [under the Anti-Homosexuality Act 2014] lesbians are covered by the bill for the first time’. This is incorrect and misleading as while not explicitly mentioned, lesbians face arrest, and incarceration under the broad interpretation of the Penal Code’s section 145.</p>	Accepted	We’ll refer to the law in the first instance and correct any inaccuracies in the next iteration.
12.	<p><b>3.1 Legal framework</b></p> <p>The report refers to the Anti-Pornography `Bill of 2010 and makes a cross-reference to 1.2.15 for an update on the law. There is no hyperlink to a section 1.2.15, and no section 1.2.15 in the CIG Uganda: Sexual Orientation and Gender Identity August 2014 report. The CIG should include an update in the text on this bill - the Anti-Pornography Act was passed by Parliament on 19 December 2013 and signed into law on 6 February 2014. It came into force on 9 May 2014</p>	Accepted	We’ll provide an update on this law in the next iteration.
13.	<p><b>3.1 Legal framework</b></p> <p>The report also refers to the HIV and Aids Control Bill of 2009 – an update on the bill from mid-March is cited from New Vision, ‘MPs reject compensation for HIV infection on duty, 19 March 2014) (the CIG does not include the link to the article: <a href="http://www.newvision.co.ug/news/653705-mps-reject-compensation-for-hiv-infection-while-on-duty.html">http://www.newvision.co.ug/news/653705-mps-reject-compensation-for-hiv-infection-while-on-duty.html</a>).</p> <p>The HIV Bill was passed into law on 13 May 2013. This information should be provided in the CIG.</p>	Accepted	Thank you for the sources. We will assess these and the material within and provide an update on the law in the next iteration.

14.	<p><b>3.1 Legal framework</b></p> <p>Provide an update on:</p> <p>The definition of NGOs under Article 1 of the NGO Act in Uganda which limits activity areas for LGBTI NGOs. NGOs engaged in advocacy or public policy activities, for example, are vulnerable to government discretion (<a href="http://www.icnl.org/research/monitor/uganda.html">http://www.icnl.org/research/monitor/uganda.html</a>)</p> <ul style="list-style-type: none"> <li>• Laws regulating sexual relations between consenting adults, including extra-marital sexual relations, divorce, restrictions on women or men to live on their own, and sex work. See for e.g.:</li> <li>• Amnesty International, Making Love a crime: Criminalization of same-sex conduct in Sub-Saharan Africa, 4.3 The impact of laws criminalizing consensual same sex conduct, April 2013, <a href="http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/afr010012013en.pdf">http://www.amnesty.org/en/library/asset/AFR01/001/2013/en/9f2d91b7-bc0e-4ea7-adae-7e51ae0ce36f/afr010012013en.pdf</a>, cited in point 3.18..11 of the Home Office Operational Guidance Note for Uganda, December 2013)</li> <li>• Laws on expression and association (this could be achieved through a cross-reference to the relevant section of the COI report)</li> <li>• Reference to the application of Sharia law to personal status issues (such as marriage, divorce) (or cross-reference to the judiciary section of the COI report).</li> </ul>	Partially accepted	<p>We'll reference relevant laws in the next iteration.</p> <p>We do not propose cross referencing to the COI report or OGN, both of which will be archived in due course, but will provide source links in the CIG.</p>
15.	<p><b>3.1 Legal framework</b></p> <p>The report should also include a reference to:</p> <ul style="list-style-type: none"> <li>• The Public Order Management Act passed in October 2013- the law has been used to restrict freedom of assembly and political opposition.</li> <li>• Exemption from Protection by the Equal Opportunities Commission –</li> <li>• Legislation barring NGOs in Uganda from “promoting homosexuality” drafted in April 2014.</li> </ul>	Accepted	<p>We will make reference to these laws / provisions in the next iteration.</p>
16.	<p><b>3.1 Legal framework</b></p> <p>Information on charges and convictions (as provided in section 2.5 and 2.6 of the CIG) should be regrouped and feature in the legal section, to illustrate how the legal framework is applied in practice.</p>	Accepted	<p>See response at 5. above.</p>

17.	<p><b>3.2 Attitude of state officials</b></p> <p>The section on attitudes of State officials includes remarks from President Musevini on same-sex relations. A perspective from other State officials such members of Parliament would be useful here</p>	Accepted	We'll include a range of views of state officials in the next iteration where available and relevant.
18.	<p><b>3.3 Arrests, detentions and convictions</b></p> <p>Information on prosecutions should be included in the legal section under a discrete subheading</p> <p>Information relating to family pressures and denouncements should be included in the section 2.8 on societal attitudes and treatment (i.e. information provided in 2.5.6 on families, partners, employers informing the police).</p> <p>Information on 'intrusive and degrading medical test' in detention cited in 2.5.8 and the reference to 'anal examinations' in 2.5.9 should be cited in the subheading below on Treatment in Detention.</p>	Accepted	See response at 5. above.
19.	<p><b>3.3 Arrests, detentions and convictions</b></p> <p>Sources on the actions by the police could be regrouped and additional sources added including on protection and transgender persons.</p>	Accepted	We'll review the structure and content of the CIG in the next iteration, including relevant information and creating specific subheadings for groups as necessary.

20.	<p><b>3.4 Healthcare</b></p> <p>The report refers to the Danish FRM 2014 ... it would be good practice to cite relevant parts of the report directly in the CIG. It would also be useful to have a greater diversity of sources on this issue, including local sources.</p> <p>A transgender and intersex perspective should be reflected in the CIG (including discrimination, issues with lack of hormonal replacement therapy in public health facilities).</p> <p>Regarding intersex persons specifically, information on the health care approach to intersex persons, including using the concealment orientated approach, resorting to surgery without the express consent of intersex individual could also be included (see SIPD and other suggested sources below).</p> <p>Finally, access to health for lesbians should also be reported separately.</p>	Accepted	<p>We will add further relevant information where available and create discrete subsections as appropriate.</p> <p>We recognise the merits of a diversity of sources, particularly where an issue is contentious or ambiguous, and will include these where relevant. We also welcome suggestions for further local sources from the reviewer.</p>
21.	<p><b>3.5 Restrictions on civil society groups</b></p> <p>Section 2.7 on restrictions on civil society groups and section 2.9 on NGO and Civil Society activism could be merged into one section as they focus on the same issues.</p> <p>Subheadings could be included and the information re-organised for the sake of clarity. Sub-headings could include for e.g.:</p> <ul style="list-style-type: none"> <li>• LGBTI NGOs and issues with registration</li> <li>• Perception of activists by State authorities</li> <li>• State treatment and repression of LGBTI activists by the State</li> <li>• Effects of the annulled Anti Homosexuality Act on NGO activities</li> <li>• LGBTI Pride Parades</li> </ul> <p>Information on the High Court ruling on repressing LGB activities because they amount to 'incitement to commit homosexual acts and conspiracy to effect an unlawful purpose' under the Penal Code reported in Section 2.7.8 should be discussed under the legal section.</p> <p>Information provided on lesbians in section 2.9.5 should be moved to the section on societal attitudes and treatment.</p>	Accepted	<p>We will review the structure and content of the section in the next iteration, moving material to the most relevant sections albeit themes are overlapping.</p>

22.	<p><b>3.6 Societal Attitudes and Treatment</b></p> <p>The issues on section 2.8.2 relating to the mandate of Equal Opportunities Commission – should be reported in the legal section.</p> <p>The section cites sources explaining the causes of homophobia stemming from religious beliefs – it would be useful to include information on public incitement from religious leaders.</p> <p>It would be good to have a discrete subheading on lesbians regrouping information on harassment specific to this subgroup including corrective rapes.</p> <p>This section includes a subheading for transgender persons, which is good practice. The subsection discusses harassment specific to transgender persons. More information could be included on family and societal pressures, bullying at school, evictions from landlords, rape endured to prove they are women (see suggested sources below).</p>	Accepted	We will review the structure and content in the next iteration. Thank you for the sources.
23.	<p><b>Annex B</b></p> <p>The title to Annex B could be amended to explicitly mention that the AHA has been annulled so as not to mislead a case-worker. It would also be useful to include an Annex citing the relevant applicable law (i.e. Article 145 of the 1950 Penal Code).</p>	Not Accepted	We do not intend to keep the annex as the AHA is available via a weblink while the relevant articles of the penal code are quoted in full in the narrative of the CIG.