



Home Office

# Country Information and Guidance

## Mali: Sexual orientation and gender identity

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## Preface

This document provides country of origin information (COI) and guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained within this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

### Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the European Asylum Support Office’s research guidelines, [Country of Origin Information report methodology](#), dated July 2012.

### Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

### 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 make recommendations to him about the content of the Home Office’s COI material. 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.

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Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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# Guidance

Updated: 12 January 2016

## 1. Introduction

### 1.1 Basis of Claim

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

### 1.2 Other Points to Note

1.2.1 This guidance refers to lesbian, gay, bisexual and transgender (LGBT) persons collectively, although the experiences of members of each group may differ.

1.2.2 Decision makers should also refer to the [Asylum Instruction on Sexual Identity Issues in the Asylum Claim](#); [Gender Identity Issues in Asylum Claims](#); and [Gender Recognition in Asylum Claims](#).

1.2.3 Where a claim by a male applicant fails to be recognised it must be considered for certification under section 9 of the Nationality, Immigration and Asylum Act 2002 as Mali is listed as a designated state in respect of men only.

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## 2. Consideration of Issues

### 2.1 Credibility

2.1.1 For further 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 [Asylum Instruction on Visa Matched Asylum Claims from UK Visa Applicants](#).

2.1.3 Decision makers should also consider the need to conduct language analysis testing. See the [Asylum Instruction on Language Analysis](#).

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### 2.2 Particular social group (PSG)

2.2.1 LGBT persons in Mali form a particular social group (PSG) within the meaning of the Refugee Convention because they share a common characteristic that cannot be changed and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although LGBT persons in Mali form a PSG, this does not mean that establishing such membership will be sufficient to make out a case to be recognised as a refugee. The question to be addressed in each case will be

whether the particular person will face a real risk of persecution on account of their membership of such a group.

- 2.2.3 For further information on particular social groups, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.3 Assessment of risk

- 2.3.1 Decision makers must establish whether or not the person, if returned to their country of origin, will live freely and openly as a LGBT person. This involves a wide spectrum of conduct which goes beyond merely attracting partners and maintaining relationships with them. 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. 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 the 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.

- 2.3.2 For further guidance, see the Asylum Instruction on [Sexual Identity Issues in the Asylum Claim](#).

### State treatment

- 2.3.3 The law does not explicitly criminalise same-sex or non-conformist gender identity, however it does prohibit association “for an immoral purpose” and Article 224 of the Malian Penal Code provides that those found guilty of committing an offence offend the decency and the moral feelings of those who witness it is punishable by 6 months to 2 years imprisonment and/or a fine. It is reported that this law can be used against sexual minorities however there is no information available about the extent to which the legislation is applied in practice (see [Legal framework](#)).

### Societal treatment

- 2.3.4 Religion and cultural traditions play an important role in the Mali's society and same-sex sexual practices are seen as immoral and evil acts by the vast majority of the population. LGBT persons experience physical, psychological, and sexual violence, which society views as corrective punishment. Family members, neighbours, and groups of strangers in public places subject LGBT persons to violent acts, and police frequently refuse to intervene. As a result most same-sex relationships tend to remain secret (see [Societal treatment](#)). The cumulative impact of the societal discrimination and violence suffered by LGBT persons in Mali is likely to reach the threshold of persecution in many cases.
- 2.3.5 LGBT persons are at greater risk in northern Mali which has been in a state of armed conflict since 2012, with various areas under the effective control of Tuareg-led separatist forces or Islamist armed groups. Sharia law has been imposed in certain areas under the control of these groups and in those areas homosexual acts are considered a punishable crime and a sin. For example, there was a report in February 2013 that international forces had

saved two gay men from execution in Gao following a Sharia-based trial conducted by an Islamist militia (see [Background](#)).

2.3.6 See also the [Country information and guidance on Mali: Security situation in northern Mali](#).

2.3.7 For further information on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#) and the [Asylum Instruction on Sexual Identity Issues in the Asylum Claim](#).

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## 2.4 Protection

2.4.1 If the person's fear is of persecution or serious harm at the hands of the state they would not be able to avail themselves of the protection of the state authorities. However, there is no evidence of state persecution of LGBT persons.

2.4.2 The majority of cases of violence against LGBT persons by non-state actors are not reported to the authorities. In some cases which have been reported, the police apparently held the complainant responsible for the incident because of their sexual orientation, or they rejected the complaint (see [Societal treatment](#)). There are no active LGBT organizations in Mali (see [NGOs providing support and advocacy](#)).

2.4.3 LGBT persons in Mali would not generally be able to seek and obtain effective protection from the state against acts perpetrated against them by non-state actors.

2.4.4 For further information on assessing the availability or not of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.5 Internal relocation

2.5.1 Where the threats from the state, internal relocate to escape that risk is not an option.

2.5.2 Where the threat is from a non-state actor, decision makers must give careful consideration to the relevance and reasonableness of internal relocation on a case-by-case basis taking full account of the individual circumstances of the particular person.

2.5.3 However given that homophobic attitudes are prevalent throughout the country, there is unlikely to be any place in Mali to which an LGBT person who is living openly as LGBT could safely relocate to avoid the risk.

2.5.4 Decision makers must also take account that the Supreme Court in the case of [HJ \(Iran\) and HT \(Cameroon\)](#) made the point that internal relocation is not the answer if it depends on the person concealing their sexual orientation in the proposed new location for fear of persecution.

2.5.5 For further information on considering internal relocation and the factors to be taken into account, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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## 2.6 Certification

- 2.6.1 Where a claim falls to be refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002. For further information on certification, see the [Appeals Instruction on Non-Suspensive Appeals: Certification Under Section 94 of the NIA Act 2002](#).

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## 3. Policy summary

- 3.1.1 Although same-sex sexual relations are not a criminal offence in Mali, there are laws which can be used against sexual minorities. However, there is no evidence that LGBT persons are prosecuted under this legislation in practice.
- 3.1.2 LGBT persons living in parts of northern Mali where Sharia law is being imposed by Islamist militia are likely to face severe persecution.
- 3.1.3 Same sex practices are condemned by society and are seen as immoral and evil acts by the vast majority of the population. LGBT persons experience physical, psychological, and sexual violence by non-state actors. The cumulative impact of such treatment is likely to reach the threshold of persecution in many cases.
- 3.1.4 LGBT persons in Mali are not generally able to seek and obtain effective protection from the state against acts perpetrated against them by non-state actors.
- 3.1.5 Given that homophobic attitudes are prevalent throughout the country, there is unlikely to be any place in Mali to which a LGBT person who is at risk could safely relocate to avoid that risk.

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# Country Information

Updated 25 November 2015

## 4. Background

- 4.1.1 The information below describes the situation for LGBT persons throughout Mali. However it inevitably focuses on the situation in the southern regions of Mali, where about 88 per cent of the country's population resides.<sup>1</sup> Northern Mali has been in a state of armed conflict since January 2012 and, although a ceasefire agreement was signed in June 2015, various regions in the north and east of the country remain under the effective control of Tuareg-led separatist forces or Islamist armed groups.<sup>2</sup> Sharia law has been imposed in certain areas under the control of these groups. For example, it was reported in February 2013 that international forces had saved two gay men from execution in Gao following a Sharia-based trial conducted by an Islamist militia.<sup>3</sup>
- 4.1.2 For further information on the security situation in northern Mali, see [Country information and guidance on Mali: Security situation in northern Mali](#).

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## 5. Legal framework

- 5.1.1 The Canadian Immigration and Refugee Board (IRB) noted in a response of 28 April 2014:

'Sources state that homosexuality as such is not a criminal offence in Mali... However, the US Department of State's Country Reports on Human Rights Practices for 2013 notes that the law prohibits association "for an immoral purpose" ... [The Fahamu Research Programme (FRP), an NGO located in the US that provides resources to help refugees and their legal aid advisors ... states that laws of "public outrage against indecency" may be used against sexual minorities... Article 224 of the Malian Penal Code states the following:

"Any act committed in public that offends the decency and the moral feelings of the persons who are involuntarily witness to it, and that is capable of disturbing public order and of causing a manifest social

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<sup>1</sup> Wikipedia (sourced to 2009 Census, which is in French): 'Regions of Mali', modified 21 June 2015 [https://en.wikipedia.org/wiki/Regions\\_of\\_Mali](https://en.wikipedia.org/wiki/Regions_of_Mali) The 2009 Census data is in French at <http://instat.gov.ml/documentation/mali.pdf> (Note: The 2009 Census gave the country's population as 14.5 million; the CIA World Factbook estimated the population to be 16.9 million by July 2015.)

<sup>2</sup> Breaking News: Mali unrest, undated (2015) <http://www.breakingnews.com/topic/mali-unrest/>, date accessed 25 November 2015

<sup>3</sup> Pink News: 'Mali: Two men saved from execution for being gay, following French intervention', 4 February 2013 <http://www.pinknews.co.uk/2013/02/04/mali-two-men-saved-from-execution-for-being-gay-following-french-intervention/>, date accessed 28 September 2015



prejudice, is a public outrage against decency ... Outrage against decency, committed publicly and intentionally, is punished by three months to two years imprisonment and a fine of 20,000 [about £21<sup>4</sup>] to 200,000 francs [about £215] or by only one of these two punishments.”

‘Information on the application of [the above] legislation could not be found among the sources consulted by the Research Directorate.’<sup>5</sup>

- 5.1.2 There are no laws specifically prohibiting discrimination based on sexual orientation or gender identity. According to the US Department of State 2014 Report on Human Rights practices (USSD 2014 report), ‘Citizens were generally reluctant to file complaints or press report noted that “The constitution provides for freedom of association, although the law prohibits associations deemed immoral. The government generally respected freedom of association except for members of the lesbian, gay, bisexual, and transgender (LGBT) community.’<sup>6</sup>

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## 6. Societal treatment

- 6.1.1 A report published by USAID in May 2015 noted:

‘Though Mali is one of only fourteen African countries without a law criminalizing homosexuality, societal discrimination continues to prompt sporadic violence towards the LGBTs. Malian NGO ARCAD-SIDA [the Malian Association for Research, Communication and Home Support for Persons Living with HIV and AIDS], financed by USAID, released Mali’s first human rights report outlining discrimination faced by the LGBTs in January 2014. The report summarized personal testimonies from 135 gay men and women around the country. Documented abuses include discrimination, verbal abuse, lynching, beatings, “corrective” rape of one lesbian woman, and illegal detentions. This discrimination and violence results in LGBTs hiding themselves away, dropping out of school, avoiding necessary medical treatment or maintaining employment.’<sup>7</sup> (CPIT was unable to locate an English translation of the ARCAD-SIDA report.)

- 6.1.2 The USSD 2014 report stated:

<sup>4</sup> XOF931, 20 November 2015 £1=XOF931 (CFA Francs)

<sup>5</sup> Canadian Immigration and Refugee Board: [MLI104853.FE] ‘Mali: Situation of sexual minorities and their treatment by society and the authorities, including in the capital, Bamako; state protection and support services (2009-April 2014)’ 28 April 2014 <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455427&pls=1>, date accessed 28 September 2015

<sup>6</sup> US Department of State: Country Reports on Human Rights Practices for 2014 – Mali, 26 June 2015 (Section 6) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236380#wrapper>, date accessed 28 September 2015

<sup>7</sup> USAID, Mali: Addendum to the 2012 Gender Assessment , May 2015, <https://www.usaid.gov/sites/default/files/documents/1860/Mali%20Gender%20Assessment%20Addendum%20Final.pdf>, date accessed 25 November 2015

'Credible NGOs reported [that] LGBT individuals experienced physical, psychological, and sexual violence, which society viewed as corrective punishment. Family members, neighbors, and groups of strangers in public places committed the majority of violent acts, and police frequently refused to intervene. Most LGBT individuals isolated themselves and kept their sexual identity hidden. A credible NGO reported that LGBT individuals frequently dropped out of school, left their places of employment, and did not seek medical treatment in order to protect their sexual identity and avoid social stigmatization.'<sup>8</sup>

6.1.3 The Canadian IRB, in their response of 28 April 2014, quoted a representative of ARCAD-SIDA as saying that "...the situation of sexual minorities is characterized by a state of social exclusion and marginalization, and "generally results in stigmatizing, discriminatory and homophobic behaviour. According to the ARCAD-SIDA representative, societal attitudes make "the acceptance of sexual minorities in the general community and in their own family difficult and forces them to live in hiding". A survey conducted in 2007 by the Pew Research Centre found that 98 percent of Malians questioned thought that 'homosexuality should be "rejected". The ARCAD-SIDA representative informed the IRB that socio-cultural and religious beliefs were that homosexual practices are unnatural and therefore immoral. Behind the Mask (BTM), an NGO that publishes news on LGBT people's affairs in Africa, informed the IRB that religion is an important factor in the 'negative' beliefs towards sexual minorities in Mali, and that '95 percent of the population is religious.'<sup>9</sup> (Over 90 percent of the country's population is Muslim – USSD Religious Freedom Report 2013<sup>10</sup>)

6.1.4 An article prepared by Behind the Mask in April 2011 and reproduced by GlobalGayz.com read:

'Although there is no law that specifically criminalises homosexuality in Mali, religion and ancestral traditions still play a huge role in the country's society and same sex practices are highly condemned and seen as immoral and evil acts by the vast majority of the population. The slightest suspicion can lead to one being ostracized and can ruin their life which has resulted in MSM [men who have sex with men] being forced to date females in order to comply with moral and social values.'<sup>11</sup>

<sup>8</sup> US Department of State: Country Reports on Human Rights Practices for 2014 – Mali, 26 June 2015 (Section 6)

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236380#wrapper>, date accessed 28 September 2015

<sup>9</sup> Canadian Immigration and Refugee Board: [MLI104853.FE] 'Mali: Situation of sexual minorities and their treatment by society and the authorities, including in the capital, Bamako; state protection and support services (2009-April 2014)' 28 April 2014 <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455427&pls=1>, date accessed 28 September 2015

<sup>10</sup> US Department of State: International Religious Freedom Report for 2013 <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2013&dliid=222071#wrapper>, date accessed 28 September 2015

<sup>11</sup> GlobalGayz.com: Jeering Chintzes Messier, Behind the Mask: 'Homophobia drives Malian MSM Underground', 4 April 2011 <http://www.globalgayz.com/gay-life-in-mali/> (scroll down to this article),

- 6.1.5 Not all displays of affection between men are necessarily interpreted in Malian society as being indicative of an intimate relationship. A US Peace Corps HIV/AIDS volunteer observed in a 2003 article reproduced by GlobalGayz, 'I am constantly charmed to see two men holding hands, hugging, or cuddling on a woven mat ... Malian men are physically affectionate with each other, can be seen giggling with babies bouncing on their laps, and dancing in pairs...'<sup>12</sup>
- 6.1.6 The Canadian IRB stated that, according to available sources, 'some members of sexual minorities have been victims of physical, psychological and sexual violence.' The ARCAD-SIDA representative told the IRB that the situation of sexual minorities 'generally results in stigmatizing, discriminatory and homophobic behaviour'. The representative added that 'the incidents of violence recorded by her organization "were generally ignored by the public and perceived as a legitimate punishment that could change sexual orientation" and that the violent acts "began in the family" and were also committed "by neighbours, classmates [and] random people met in public places".'<sup>13</sup>
- 6.1.7 The Canadian IRB report cited three incidents of homophobic violence. For example, in September 2013 a group of LGBT people was attacked by a mob during a party in the central city of Mopti which was wrongly perceived as the celebration of a gay marriage. Some people 'suspected of belonging to sexual minorities' were captured and beaten over the next three days, and the National Guard reportedly did not respond to requests for help. (However, Malian media indicated that a member of the National Guard was killed during the clashes.) According to the ARCAD-SIDA representative, LGBT people were 'forced to leave the city for more security, abandoning family and employment.' Some local NGOs took action and reportedly gave help to over 200 members of sexual minorities who had left their homes.<sup>14</sup>
- 6.1.8 The ARCAD-SIDA representative informed the Canadian IRB that "It is difficult to assess the effectiveness of the judicial system because the majority of cases of violence identified have not been the subject of complaints or legal action. All the cases identified were managed within the community and the few rare individuals who were brave enough to file a complaint against their attackers were wrongfully accused by the police itself

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date accessed 29 September 2015

<sup>12</sup> GlobalGayz.com: Ben Kindler, 'Stirring it up in Mali', 4 May 2003 <http://www.globalgayz.com/gay-life-in-mali/> (scroll down), date accessed 29 September 2015

<sup>13</sup> Canadian Immigration and Refugee Board: [MLI104853.FE] 'Mali: Situation of sexual minorities and their treatment by society and the authorities, including in the capital, Bamako; state protection and support services (2009-April 2014)' 28 April 2014 <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455427&pls=1>, date accessed 28 September 2015

<sup>14</sup> Canadian Immigration and Refugee Board: [MLI104853.FE] 'Mali: Situation of sexual minorities and their treatment by society and the authorities, including in the capital, Bamako; state protection and support services (2009-April 2014)' 28 April 2014 <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455427&pls=1>, date accessed 28 September 2015

because of their sexual orientation or their complaint was rejected.” The IRB was unable to find corroborating information for this.<sup>15</sup>

6.1.9 The Director of ARCAD-SIDA, Dr Dembelé Bintou Keita, informed the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) in an interview in March 2011, “On a social level, the abuses start in the family. Men who are attracted to other men are forced to get married so that they will not bring shame to the family.” According to Dr Dembelé, more than 50% of MSM in Mali were married to women, but ‘had sexual practices on the sly with casual male partners’.<sup>16</sup>

6.1.10 Regarding access to medical treatment, the Director of ARCAD-SIDA observed, ‘Religious practices, cultural beliefs and stigmatization by the general population hamper access to health care and HIV/AIDS prevention for [MSM in Mali] and force them into...underground sexual practices that put them at high risk of sexually transmitted [diseases] and HIV infections.’ He said, “...if they contract STD or HIV infections, they are scorned or ashamed to go to a doctor for fear to reveal their...sexual orientation.”<sup>17</sup>

## 7. NGOs providing support and advocacy

7.1.1 The USSD 2014 Report noted that there were no known LGBT organizations in Mali, although some NGOs had medical and support programs focusing specifically on gay men.’ The ARCAD-SIDA, apart from providing medical care, offers support and networking and advocacy for the gay community in Mali.<sup>18</sup> The Director of ARCAD-SIDA stated in an interview in 2011 that ‘the homophobic and religious environment, the small number of MSM going to health care structures, and the stigmatization of ARCAD/SIDA’ seemed to impact significantly on the organization’s ability to deliver services at an optimal level.<sup>19</sup>

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<sup>15</sup> Canadian Immigration and Refugee Board: [MLI104853.FE] ‘Mali: Situation of sexual minorities and their treatment by society and the authorities, including in the capital, Bamako; state protection and support services (2007-April 2014)’ 28 April 2014 <http://www.irb-cis.gc.ca/ResRec/RirRdi/Pages/index.aspx?doc=455427&pls=1>, date accessed 28 September 2015

<sup>16</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA): ‘Mali: Homophobia and stigmatization hamper HIV prevention efforts’, 15 March 2011 <http://ilga.org/mali-homophobia-and-stigmatization-hamper-hiv-prevention-efforts/>, date accessed 28 September 2015

<sup>17</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA): ‘Mali: Homophobia and stigmatization hamper HIV prevention efforts’, 15 March 2011 <http://ilga.org/mali-homophobia-and-stigmatization-hamper-hiv-prevention-efforts/>, date accessed 28 September 2015

<sup>18</sup> US Department of State: Country Reports on Human Rights Practices for 2014 – Mali, 26 June 2015 (Section 6) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236380#wrapper>, date accessed 28 September 2015

<sup>19</sup> International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA): ‘Mali: Homophobia and stigmatization hamper HIV prevention efforts’, 15 March 2011 <http://ilga.org/mali-homophobia-and-stigmatization-hamper-hiv-prevention-efforts/>, date accessed 25 November 2015

## Version Control and Contacts

### Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email [the Country Policy and Information Team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

### Clearance

Below is information on when this version of the guidance was cleared:

- version **1.0**
- valid from **15 April 2016**
- this version approved by **Sally Weston, Head of Legal Strategy Team, International and Immigration Policy Directorate**
- approved on: **24/03/2016**

### Changes from last version of this guidance

N/A

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