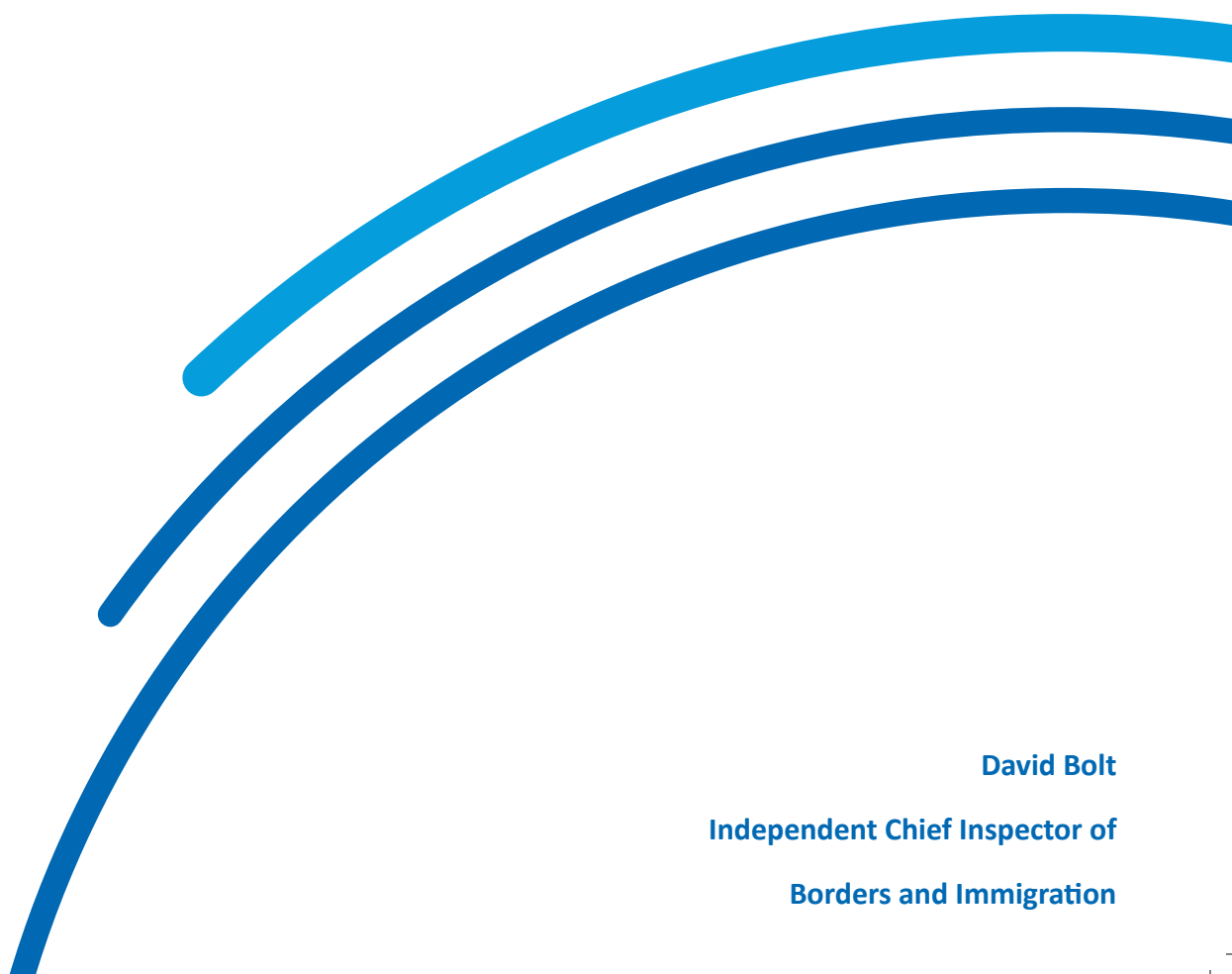




Inspection of Country of Origin Information

November 2016 Report



David Bolt
Independent Chief Inspector of
Borders and Immigration

Inspection of Country of Origin Information

November 2016 Report

Presented to Parliament pursuant to Section 50 (2) of the UK Borders Act 2007

February 2017



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To help improve the efficiency, effectiveness and consistency of the Home Office's border and immigration functions through unfettered, impartial and evidence-based inspection.

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Introduction

The UK Borders Act 2007 Section 48 (2)(j) states that the [Independent] Chief Inspector [of Borders and Immigration] ‘shall consider and make recommendations about’ ... ‘the content of information about conditions in countries outside the United Kingdom which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.’

The Independent Advisory Group on Country Information (IAGCI) is a panel of experts and practitioners, created to assist the Independent Chief Inspector in this task. The IAGCI commissions and quality assures reviews of country information reports produced by the Home Office’s Country Policy and Information Team (CPIT).

The current membership of the IAGCI can be found on the Inspectorate’s website.¹ In October 2016, three new members joined IAGCI: Professor Giorgia Dona, from the University of East London; Dr Nando Sigona, from the University of Birmingham; and Dr Julie Vullnetari, from the University of Southampton. I am grateful to them for agreeing to become members. Meanwhile, Dr Elena Fiddian-Qasmiyeh, from the London School of Economics, resigned her membership in May 2016. I would like to thank Elena for her time, given freely, and the expertise she brought to IAGCI.

This report covers the reviews considered and signed off by the IAGCI at its November 2016 meeting, which related to Afghanistan, Sudan and Vietnam. The report makes four recommendations for improvement. It was submitted to the Home Secretary on 13 December 2016.

¹ <http://icinspector.independent.gov.uk/country-information-reviews/>.

Country of Origin Information reviewed by IAGCI

1.1 In August 2016, IAGCI sought tenders for reviews of the following CPIT products:

- Afghanistan
 - Country of Origin Information Requests (COIRs)
 - Women Fearing Gender-Based Harm/Violence Country Policy Information Note (CPIN) (February 2016)
 - Sexual Orientation and Gender Identity CPIN (February 2016).
- Sudan
 - Country of Origin Information Requests (COIRs)
 - Failed Asylum Seekers² CPIN (September 2015)
 - 'Sur Place' Activities CPIN (September 2015).
- Vietnam
 - Country of Origin Information Requests (COIRs)
 - Trafficking CPIN (May 2016)
 - Opposition to Government CPIN (December 2014)
- Bangladesh
 - Country of Origin Information Requests (COIRs)
 - Minority Religious Groups CPIN (April 2016)
 - Political Opponents CPIN (February 2015)

1.2 These countries and topics were chosen because they were last reviewed in 2012 (Sudan, Vietnam) or 2013 (Afghanistan, Bangladesh), and CPIT had produced a number of more recent for each and had plans to produce updates.

1.3 Tenders were received and reviewed by a panel of IAGCI members:

- 3 for Afghanistan, from which one reviewer was selected;
- 1 for Sudan, which was assessed and considered suitable;
- 1 for Vietnam, which was assessed and considered suitable; and
- None for Bangladesh.³

² In line with UNHCR best practice, the inspectorate prefers the term 'Rejected Asylum Seekers' as a more neutral shorthand for the full phrase - 'a person whose asylum application has been rejected'.

³ IAGCI will re-tender the Bangladesh reviews in early 2017.

- 1.4 The completed reviews were quality assured by the IAGCI Chair with input from members. Copies are at Annex A. CPIT's written response to the reviewers' points and recommendations are tabulated at Annex B.
- 1.5 IAGCI met on 10 November 2016. The agenda and minutes of this meeting are at Annex C. At CPIT's request, following the meeting all three of the reviewers submitted additional evidence and/or references. These are at Annex D.

Findings and Recommendations

General

- 2.1 This was the first round of reviews using a new template, circulated in draft at the previous IAGCI meeting (in May 2016) and agreed out of committee. At the 10 November 2016 IAGCI meeting, CPIT requested that this template be restructured to make it clearer when the reviewer was making a recommendation, which would also make it easier for CPIT to respond to the review.
- 2.2 IAGCI will look to amend the template in advance of the next round of reviews (planned for February 2017), but the Chair cautioned against a simple listing of recommendations and action points as the reviewer's narrative in relation to the issue(s) was also important.
- 2.3 On this occasion, CPIT had responded with 'Acknowledged' where it judged that the reviewer's points were not directly linked to a recommendation or referred to material that post-dated publication of the relevant CPIT report. Otherwise, recommendations were 'Accepted', 'Partially Accepted' or 'Not accepted/Rejected' as before. CPIT's responses are set out in full at Annex B. The summary below highlights points of particular interest, and makes four recommendations that require a formal Home Office response.

Afghanistan

- 2.4 Eight COIRs were reviewed. CPIT 'Acknowledged' the reviewer's points in relation to one: Former members of Hezb-i-Islami; and 'Partially Accepted' her points and recommendations in relation to six: Ethnic Hazaras; Passport fraud; Interfaith marriages; Tattoos in Islam; the Ismaili sect; and Shura-e Nazar. In most cases, the reason for partial (rather than full) acceptance was the absence of reliable, publicly available sources. CPIT rejected the reviewer's comments regarding Desertion from the Afghan National Police (ANP) as 'speculative'.

Recommendation 1

The Home Office should clarify the guidelines⁴ it is currently working to when processing information for the purpose of Country Policy Information Notices, or in responses to Country of Origin Information requests, including its definition of any specific terms, for example 'publicly available'.

- 2.5 CPIT identified 15 recommendations in relation to Women Fearing Gender-Based Harm/Violence, of which it 'Accepted' nine, 'Partially Accepted' five, and 'Rejected' one. A further five points made by the reviewer were 'Acknowledged'. The reviewer commented that, overall, the CPIN was 'well-structured and comprehensive', needing only minor edits or additions, except in relation to two 'missing' points: the treatment of women with disabilities, and of women's rights defenders or women leaders in a deteriorating security situation. CPIT undertook to include reference to the former in the next version, but argued that there were already sufficient references to the latter in the existing guidance.

⁴ For example, Common EU Guidelines for Processing Country of Origin Information (COI), 2008.

- 2.6 CPIT identified 20 recommendations in relation to Sexual Orientation and Gender Identity, of which it 'Accepted' six, 'Partially Accepted' eight, and 'Rejected' six. A further four points made by the reviewer were 'Acknowledged'.
- 2.7 One of the 'Rejected' recommendations referred to the safety of LGBT Afghan asylum seekers within mixed refugee communities. CPIT responded that this matter was 'beyond the remit of the review and unrelated to COI or the work of CPIT', but that the Home Office implemented measures to ensure the safety of vulnerable asylum seekers. This response is not entirely satisfactory, as inspection findings and recommendations apply to the Home Office and not solely to CPIT.

Recommendation 2

The Home Office should ensure that where an IAGCI review raises issues that fall outside CPIT's remit, the relevant business areas are made aware and respond.

- a. In this instance, the Home Office should confirm that the area responsible for ensuring the safety of vulnerable asylum seekers is aware of the reviewer's comments in relation to the risks to LGBT Afghan asylum seekers living in mixed refugee communities.

Sudan

- 2.8 The Sudan reviewer commented that, given the limited amount of information in the public domain, and in particular the difficulties of obtaining information from within Sudan, the COIR/CPINs she reviewed were for the most part 'accurate', 'relevant', 'reliable' and 'balanced'.
- 2.9 Seven COIRs were reviewed. CPIT 'Accepted' the reviewer's recommendation in relation to five: Treatment of Coptic Christians; Languages – Zaghawa tribe, non-Arab Darfuri; Conflict in South Kordofan/Blue Nile states; Sudanese refugees in Israel; and Nationality law in Sudan. They were 'Partially Accepted' in the case of the other two: Justice and Equality Movement; and Massalit (tribe).
- 2.10 CPIT identified 12 recommendations in relation to Failed Asylum Seekers (safety on return). Of these, it 'Accepted' seven, 'Partially Accepted' two, and 'Rejected' three, one of which related to the IAGCI process and was outside CPIT's control, while the other two involved misunderstandings on the part of the reviewer. Two further points were 'Acknowledged'.
- 2.11 The reviewer made 23 recommendations in relation to 'Sur Place' Activities. Of these, 19 were 'Accepted', three 'Partially Accepted', and one 'Rejected'. One further point was 'Acknowledged'. For the 'Rejected' recommendation, CPIT's response dealt with the reviewer's challenge to its comment that information 'may no longer be current or accurate', and IAGCI accepted that this was 'a reasonable qualification'. However, it failed to address the reviewer's proposal that CPIT re-contact the original source for an update.

Recommendation 3

The Home Office should ensure that responses to points and recommendations made in IAGCI reviews are complete, and explicit regarding what action(s) CPIT and others will take and by when.

Vietnam

- 2.12 The reviewer commented that both the CPINs she reviewed were heavily reliant on US material from State Department sources and agencies, and that understanding would be improved by referring to a broader range of sources. Nonetheless, the reviewer described both CPINs as ‘comprehensive’.
- 2.13 Ten COIRs were reviewed. CPIT ‘Accepted’ the reviewer’s points and recommendations for all ten. The COIRs covered: Religious Groups (Hoa Hao Buddhism); Crime and corruption; Political affiliation (Monitoring of Demonstrations); Nationality and same sex relations; Treatment of single mothers; Moneylenders and loans; Double jeopardy; Ho Khao registration system; Illegal exit and crimes abroad; and Use of technology at airports.
- 2.14 The reviewer made five recommendations in relation to Trafficking, two of which were ‘Accepted’, two ‘Partially Accepted’ and one ‘Rejected’. The ‘Rejected’ recommendation related to the level of State surveillance in Vietnam and how this affected the ability of victims of trafficking to relocate and remain undetected by their traffickers. CPIT rejected this point because victims were at risk of persecution from traffickers and not from the State, but this does not take account of the ‘power framework’⁵ in Vietnam and ignores the possibility that information collected by the State is also available to criminal gangs should they seek it, or that trafficking networks frequently include state agents who support such activity through active participation or indirect complicity.
- 2.15 The reviewer made two recommendations in relation to Opposition to Government, both of which were ‘Accepted’.

Recommendation 4

The Home Office should share COIRs and CPINs that refer to trafficking and modern slavery with the Independent Anti-Slavery Commissioner (IASC) in draft to ensure that Country Guidance reflects the IASC’s knowledge and expectations.

D J Bolt

Independent Chief Inspector of Borders and Immigration

⁵ See <http://www.coi-training.net/handbook/Researching-Country-of-Origin-Information-2013-edition-ACCORD-COI-Training-manual.pdf>.

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Annex A: IAGCI Commissioned Reviews

A1: Afghanistan Women fearing GBH/Violence

[Guidance for Reviewers]

Review of Country Information and Guidance

Afghanistan:

Women fearing gender- based harm / violence Version 1.0 February 2016

Prepared for the Chief Inspector of Borders and Immigration & the Independent Advisory Group on Country Information (IAGCI)

Date Review Submitted

27.10.2016

Dr. Orzala Ashraf Nemat, Alumni/Senior Teaching Fellow at the School of Oriental and African Studies (SOAS)

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Introduction

1.1 Purpose of the Review

The review aims to provide an accurate, balanced and updated summary of the key available information on the human rights situation, with respect to the issues selected for coverage, in Afghanistan. The purpose of this review is to ensure that information on this report are valid and updated in each section.

The review is carried out to ensure that information from source documents are appropriately and accurately reflected in the CIG report; additional sources and references to most update events are added to further enrich the CIG document and finally to correct any specific information that has been identified as invalid or error. And finally to comment on the structure and any missing parts or issues that needs to be addressed based on the expert's views.

1. Overall comments

1.1 Summary of most important findings, listed for each CIG Report reviewed, separately.

The report on Women fearing gender- based harm / violence (Version 1.0 February 2016) is well structured and comprehensive. It is balanced in terms of the information it provides on each section and descriptions, although detailed but valid and accurate.

This report is presenting a full review of the CIG report and in parts where concrete recommendations are needed, the report provides them referencing to the points within the document. In parts where only minor edits or addition is suggested, the added text is highlighted in red.

In overall, the report is valid and covers all key areas. However, two points that it are missing are addressing the particular conditions of women with disabilities who are among the most vulnerable groups in the country with very limited facilities. (See latest AIHRC report for further details on this.) and secondly, identifying women rights defenders or women leaders' particular situation as persons whose conditions, due to deteriorating security situation is becoming alarming, particularly in provinces and districts. Hence, it is recommended that the next report should add points and references on these two topics within the document.

Suggestions relating to the COI Requests:

1. Addressing the situation of women with disabilities fearing gender-based harm and violence would be important, given the vulnerability of this group.
2. Highlighting the importance and indeed some details on the situation of women human rights defenders would be helpful, as they are at risk of targeted assassination, kidnapping and interrogation for the work they do on women's rights and justice.

1.2 Understanding of the themes addressed in the CIG Reports

Overall, the report provides a comprehensive understanding of the status of women fearing gender based harm and violence in the country and it uses appropriate data and language to highlight different aspects of the context that could be relevant and helpful for the CIG report and indeed assessment of cases in this regard.

1.3 Quality and balance of sources

The review is balanced in terms of information it provides and sources it uses.

The quality of the review is good, it provides very detailed information on each section and the structure of the report too covers fully all different aspects of women's status from socio-economic to political and society. The report is covering relevant and further updates on country situation.

In the following section, specific comments, suggestions, additions and edits are added to each section. The points that are added are identified in accordance with the numbering in the original document.

Individual paragraphs are only referenced in parts where edits are suggested. All material and data that are introduced newly are fully referenced to accurate sources available online or in case it is based on the individual experience of the author, it is identified in a footnote.

The report is well-structured and each section provides detailed information. However, there is one area with longer details (for example Section 10.1. on women police officers) seems very detailed.

For further comments and suggestions, please see following details point by point:

1. Introduction

On point 1.1.2: Not sure if there will be specific rule for women's human rights defenders, but I suggest following addition at the end of the 1.1.2 point:

...serious harm includes domestic violence, sexual violence including rape, 'honour' and 'moral crimes', fear of targeted attack or assassination, fear of kidnapping.

2. Consideration of Issues

2.2 Particular social group (PSG)

Suggested edits/addition for the point 2.2.1:

In NS (Social Group - Women – Forced marriage) Afghanistan CG [2004] UKIAT 00328 the Tribunal found that that women of various socio-economic status (such as widows, women with

disability, women headed households, women victims of violence and/or forced marriage, women's human rights defenders) in Afghanistan form a particular social group (PSG) within the meaning of the Refugee Convention (also see Background and Legal context).

2.3 Assessment of risk

Under state treatment following edits are suggested:

2.3.1 Although the government of Afghanistan has undertaken positive steps towards the empowerment of women through various policies and laws, violence against women is still a serious human rights challenge in Afghanistan. Domestic violence is not explicitly classified as a crime in the Penal Code and the Elimination of Violence Against Women law criminalises rape but there is no description or reference to spousal rape. Justice mechanisms are available to women within the existing legal framework, although implementation of the law varies across the country. Deterioration of security problems, especially in the districts and provinces also results in poor delivery of justice services. The number of women jailed for "moral crimes" increased by 50 per cent between 2011 and 2014. (Reference Needed) Rape victims are often treated as criminals by the criminal justice system. Unaccompanied women as well as women who are accompanied with men who are not their blood relatives, may face arrest and prosecution under the offence of Zina (adultery) and may be subjected to forced virginity tests. Government officials have been implicated in human rights abuses against women human rights defenders (Need reference). (See Position of women in society, Legal context, "honour" and "moral" crimes, and State attitudes and response to violence against women).

Bellow edits suggested for point 2.3.2.:

2.3.2 Afghanistan remains a strictly patriarchal society, which restricts freedom of movement, and limits access to healthcare services, justice and the workplace. There is no law banning sexual harassment and it is estimated that around a third of men living in more remote parts of rural areas refuse to let their wives go to hospital to give birth due to conservative views on honour.⁶

2.4 Protection

Please see suggested addition/updates on point 2.4.1:

2.4.1 There are legal mechanisms in place for women to report acts of violence against them, and cases of perpetrators being prosecuted for their crimes of violence against women (VAW). In 2016, the special prosecution office on the elimination of VAWS was promoted to Deputy Attorney General position to ensure provincial and district justice sector gets better support. Also Family Response Units are planned to be form across all provinces within the office of Police Chief (Qomandani Amniya). However, lack of security, corruption in the judiciary and low level awareness of the laws protecting women, continue to allow perpetrators to escape punishment. Police and the prosecutors continuously refer cases relating to violence against women, including domestic violence, to informal justice mechanisms (jirgas and shuras) for advice or resolution when such cases should be formally prosecuted. Only a small percentage of reports of violence against women are registered with the judicial system, and about one-third of those proceed to trial. Some

⁶ Ahmad Farid Tanha, 22nd October, 2015, Afghanistan: "Honour" Rules Deny Care to Mothers and Babies, [ARR Issue 525](http://www.ihrw.org/news/2015/10/22/afghanistan-honour-rules-deny-care-to-mothers-and-babies), <https://iwpr.net/global-voices/afghanistan-honour-rules-deny-care-mothers-and> (Accessed on 24.10.2016)

women are reluctant to report cases of violence to state agencies because under the applicable legal framework, women victims may be charged with adultery, and because of the victims' fear of retaliation and stigmatization. (See "Honour" and "moral" crimes, and State attitudes and response to violence against women).

2.5 Internal relocation

This section is comprehensive and no particular update or change is recommended.

2.6 Certification

This section is comprehensive and no particular update or change is recommended.

3. Policy summary

This section is comprehensive and no particular update or change is suggested.

Country Information

4. Position of women in society

The following addition is recommended to be added after point 4.1.2:

During 2016, Afghanistan has experienced a significant increase in the number of Internally displaced persons (IDPs). During his visit, Chaloka Beyani, the UN Special Rapporteur on the Human Rights of IDPs highlighted the challenges that women headed household face and the importance of supporting them as a vulnerable group: "The situation has left many women as heads of households, yet they cannot adequately support their families due to discriminatory laws that prevent them from owning land or property."⁷

Following to the point 4.1.3, bellow paragraph should be added as a new point:

4.1.4 Afghan women, particular those active in public role became under direct attacks of extreme situations such as fall of Kunduz province last summer. According to HRW, "The Taliban took control of Kunduz, they looted offices of women activists, shelters, and female-run radio stations, and issued threats that compelled dozens of activists to flee the city."⁸ Despite the new government affirmation to enhance protection of women's rights, failure to take steps improving enforcement of EAW law and stopping women's prosecution on the charges of "moral crimes", while they are victims of forced marriage, domestic violence etc. are major persistent challenges to date.

Following to point 4.1.6, the bellow point is suggested to be added:

4.1.7. The murder of Farkhunda Malikzada, 27, by a Kabul mob on March 19 2015 after she was accused of burning a copy of the Quran, galvanized women's rights activists, who launched public campaigns and demonstrations asking for justice. The trial process of perpetrators have not been

⁷ UN News Centre, 20th October, 2016, UN human rights expert calls upon Afghan Government to urgently address displacement crisis <http://www.un.org/apps/news/story.asp?NewsID=55358#.WBDT6eErJ-U> (Accessed on 24.10.2016)

⁸ HRW Annual Report 2016, Afghanistan Country Report, women's rights section. <https://www.hrw.org/world-report/2016/country-chapters/afghanistan> (Accessed 25.10.2016)

satisfactory to Farkhunda's family nor to the civil society groups, as some of the key organizers of the mob, have not been arrested so far due to their supposed links with powerful networks. The case, although unique in its own term, also indicates an additional concern for women leaders, activists and those with public role who are already targeted by anti-government forces such as Taliban and IS.

5. Legal context Legislation

Below is suggested edits for the point 5.1.3:

5.1.3 USIP noted 'Election legislation protects women's right to vote and sets quotas for women to participate in elected bodies. A right to legal aid is guaranteed for women and the indigent.'¹⁵ For example, there are a number of organisations providing free legal services for women and supporting access to justice in Kabul and other large cities and provinces. De Qanoon Ghoshtunky, Women for Afghan Women, HAWCA etc. are among NGOs supporting women's protection and legal aid needs.⁹

An additional point to be added as follows:

5.1.12 According to the CEDAW Shadow Report on 2015 by Afghan Women's Network, all key implementing gaps that were identified in the earlier AWN CEDAW Shadow Report in 2012, are still prevalent. Additionally, the report raised concerns about the politicization of Afghan Independent Human Rights Commission (AIHRC) by the earlier administration and by the Special Human Rights Rapporteur who visited Afghanistan during 2015. (Paragraph 2 and Paragraph 22 respectively)¹⁰

6. Social and economic rights

6.1 Overview

Suggested edits/updates for point 6.1.1:

The population of Afghanistan is estimated 33,332,025 (July 2016 estimate).¹¹ There is also a repetition of a point in the quotation that I suggest be removed. (See point 2.3.2)

6.2 Marriage, divorce, child-custody, and inheritance laws.

6.3 Single/unaccompanied women

Information on above points are still valid and no recent update is reported on these parts.

7. Harmful traditional practices

⁹ See for more information on these organisations the following links: <http://www.dgg.org.af/pages.php?id=344> , <http://hawca.org/new/index.php/projects/implemented-projects/107-protection-and-counseling-legal-aid-center-for-female-victims-of-violence-herat> , <http://www.womenforafghanwomen.org/family-guidance-centers>

¹⁰ AWN 2015, Afghanistan NGO Shadow Report on CEDAW, <http://www.awn-af.net/index.php/cms/content/501> (Accessed on 25.10.2016).

¹¹ CIA World Fact-book, Afghanistan, last updated 28 October 2015, <https://www.cia.gov/library/publications/the-world-factbook/geos/af.html>, People and society (Accessed on 26.10.2016)

Before point 7.2.1. the following point should be added:

7.2.1 According to the United National report, 12 per cent of the 7.3 million underage girls that are forced into marriage every year, are Afghan girls. UNFPA report on July 20th, 2016 indicates that 57 percent of girls are married before the age of 19, about 40 percent are married at an age between 10 to 13 years, 32 percent at age 14, and 27 percent at age 15.¹² The report adds, poverty, harmful customs and traditional practices, insecurity, and the culture of impunity, are the main reasons for increasing rates of coerced and underage marriages in Afghanistan based on AIHRC report.¹³

8. Sexual and gender-based violence

Information on the above sections are valid and has not changed significantly.

9. State attitudes and responses to violence against women

It is suggested to add the following point after 9.1.2:

9.1.3 Several women with high profile came under direct attack and either assassinated, kidnapped or injured during targeted attacks, however, no formal investigation has been launched to follow up their cases and find the perpetrators.¹⁴ Latest was assassination of Angeza Shinwari an MP from Nangarhar province who was severely injured and then killed, while no particular action is taken to arrest her murderers to date.¹⁵

9.2 Avenues of redress

Following to the point 9.2.8, this point needs to be added:

9.2.9 Due to lack of formal justice services, in many parts of Afghanistan, women spend their prison sentence time in the house of tribal elders. According to Reuters article dated October 11, 2016, due to lack of prison facilities for women in some provinces, tribal elders keep women as prisons or better say slaves.¹⁶ Some 850 women are imprisoned in official detention centers in Afghanistan for crimes ranging from murder to drugs and “moral crimes”, said Alim Kohistani, director of Afghanistan’s prison service. “There could be thousands of other women kept in unofficial places [such as houses of tribal elders] across the country in the absence of proper jails,” added Kohistani. The situation of women under tribal elders’ custody is explained by a local activist:

“From sexual abuse to other forms of unjust and inhumane acts, these women become a tribal

12 Samsama Seerat, 1st August 2016, Child marriage, still a challenge for Afghan girls, RAWA News, <http://www.rawa.org/temp/runews/2016/08/01/child-marriage-still-a-challenge-for-afghan-girls.html#ixzz4OEaLbtav> (Accessed 26.10.2016)

13 Ibid.

14 Orzala Ashraf Nemat & Ajmal Samadi, 2012, Forgotten Heroes Afghan Women Leaders Killed in Impunity Ignored in Justice, via relief web <http://reliefweb.int/sites/reliefweb.int/files/resources/Forgotten%20Heroes%20Afghan%20Women%20Leaders%20Killed%20in%20Impunity%20Ignored%20in%20Justice.pdf> (Accessed on 27.10.2016)

15 Khama Press, February 16th, 2015, Angeza Shinwari succumbs to injuries, <http://www.khaama.com/angeza-shinwari-succumbs-to-injuries-29072> (Accessed on 27.10.2016)

16 Mohammadullah Himatyar, 11th October, 2016, Most Afghan women serve sentences in elders’ homes, not prisons, <http://uk.reuters.com/article/uk-afghanistan-women-prisons-idUKKCN12A2L0> (Accessed on 27.10.2016)

elder's property," said Zalmay Kharote, a rights activist working in Paktika.¹⁷

10. Assistance available to women

10.2 Women's shelters

Under point 10.2. following to the paragraph bellow sentence must be added.

And in areas with limited or no prison and formal protection is available, women were sent to homes of tribal elders (See point 9.2.9)¹⁸ and in instance, battered women will spend a night or two at the provincial directorate of ministry of women's affairs' house until they find a place for her.¹⁹

Information about the Reviewer

Dr Orzala Ashraf Nemat has graduated from SOAS Development studies. Her Doctoral thesis focused on the study of power relations that emerge as a result of external interventions in the Afghan villages. Dr Nemat has long been involved in human rights and women's rights campaigns in Afghanistan. During 2015- 2016 she taught courses on Development Practice and Conflict and Development for MA and BA studied in Development Studies. She is a well-known Afghan for her stand on justice, women's rights and democratic reforms in governance relations in Afghanistan. Since August 2016, Dr Nemat is back in Afghanistan and involved in her research and policy advise on local governance reforms.

¹⁷ Ibid.

¹⁸ Mohammadullah Himatyar, 11th October, 2016, Most Afghan women serve sentences in elders' homes, not prisons, <http://uk.reuters.com/article/uk-afghanistan-women-prisons-idUKKCN12A2L0> (Accessed on 27.10.2016)

¹⁹ Based on reviewer's previous experience in this field, this was indicated by the DoWA director in Samangan province who had to keep several women at home until Shelters in Kabul or Mazar were ready to receive them. (Information dates back to the year 2004).

A2: Afghanistan Sexual Orientation and gender identity, including review of COI requests

Review of Country Information and Guidance Report: Afghanistan: Sexual orientation and gender identity Version.1 February 2016

Prepared for the Chief Inspector of Borders and Immigration & the Independent Advisory Group on Country Information (IAGCI)

Date Review Submitted

27.10.2016

By Dr. Orzala Ashraf Nemat, Alumni/Senior Teaching Fellow at the School of Oriental and African Studies (SOAS)

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2. Introduction

2.1 Purpose of the Review

The purpose of this review is to ensure that information and analysis provided in this report, are comprehensive, accurate and up to date. The review will first provide an overall assessment followed by answering some key questions in terms of what is expected from the review and then, provide comments on each section of the report followed by suggested recommendations.

The review is carried out to ensure that information from source documents are appropriately and accurately reflected in the CIG report; additional sources and references to most update events are added to further enrich the CIG document and finally to correct any specific information that has been identified as invalid or error. And finally to comment on the structure and any missing parts or issues that needs to be addressed based on the expert's views.

3. Overall comments

3.1 Summary of most important findings, listed for each CIG Report reviewed, separately.

The CIG on Sexual Orientation and Gender Identity provides a good overview of the contextual complexities and characteristic of the LGBT persons in the case of Afghanistan. Despite significant lack of reliable sources for citation and reference, the author/reviewer believes this report covers fully the contextual analysis for the LGBT persons in the case of Afghanistan.

There are some areas for further improvements. Please see three suggested points in the following for further improvement of this report.

All additional points and suggestions are referenced to a reliable online source or otherwise if based on personal information, it is added in the footnote.

Suggestions relating to the COI Requests:

1. Given the sensitivity of the LGBT issues in Afghanistan, it will be necessary to look into individual cases also in terms of how it affects the family members, particularly closed or dependant family members of the applicant.
2. Although the LGBT persons are not very public, but systematic stigmatisation means, the person who identifies him/her self as LGBT should be provided counselling services and networking support to integrate smoothly within the UK society and facilitate links with LGBTI communities within the UK.
3. The protection mechanism for asylum seekers under LGBT category should be a priority as within larger camps or areas, both the LGBT male and female could come under attack and abuse by straight men who bring this view with them to diaspora.

3.2 Understanding of the themes addressed in the CIG Reports

How well does the report reflect prevalent legal usage and academic understandings of the themes under consideration?

The report covers different aspect of the issues that are needed for understanding the LGBT persons and their life challenges within the context of Afghanistan. However, there are two areas that could also be explored or addressed to this part: 1) Safety of LGBT persons upon their arrival as an asylum seeker, who are kept within mixed refugee communities. 2) Given the complexity of the LGBT status within the Afghan context, it can be possible that for instance men identified as gay can have children and wife/wives depending on them. Hence, a particular description on this needs to be added within the report in future. And finally, 3) The possibility or option for internal relocation which becomes highly risky, given the vulnerability of the persons belonging to LGBT community.

3.3 Quality and balance of sources

In general, what is the quality and balance of the sources used? Are they generally of high quality and relevant to the time period covered by the CIG Report?

Overall the quality of the report is good. It could have been stronger using some lively example, by country experts who are aware of the life stories of some LGBT persons in the country. These examples will contribute to helping decision-makers in terms of understanding the depth of stigmatisation and trauma that often LGBT persons experience in their country of origin. Adding at least one story line, although it may make the report lengthy, will be helpful for those using this report to understand the depth of the issues that LGBT communities face in their position in the society etc.

The report is well-structured and information is accurate (Except when it is mentioned in the comments below), update and balanced.

The following sections contain comments and suggested additions and references to each part of the report.

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

In terms of language and terms used by the applicant, it is important to also note the specific wording used for LGBT in the country. For instance, for all different social and cultural reasons, LGBT is not a commonly used term to refer to sexual identities of persons within these categories in Afghanistan. There is also a high risk of mixing homosexuality with sexual abuse most of the time. For instance, Bacha Bazi (Pedophilia) is a term referring to adult men having sexual relations and sexual intercourse with minor boys. Hence, decision-makers need to be clear on these context-specific terms. Another example is related to expressions and appearances. For instance, two men walking on the street or posing for a photo holding hands with each other does not simply mean they are gay. It can mean they are close friends but not necessarily with sexual relations being involved.

2.2 Particular social group (PSG)

2.2.1 LGBT persons form a particular social group (PSG) in Afghanistan 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 form a PSG, this does not mean that establishing such membership will be 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 membership of such a group.

Although, in this case, it must be noted so far there is no public evidence that LGBT communities live in Afghanistan in groups. This is due to severe stigmatization and also taboo as if anyone is identified with LGBT identity, he or she could be prosecuted severely by public and by the state based on Sharia and Afghan laws.

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.

LGBT as a form of identity is forbidden and while various sources online and within the society confirm that men and women are found who prefer and have desire for same-sex relations and relationships, due to cultural and religious norms, they hide their expressions or publicly, even within their families. This often results in traditional marriages and bringing up of children, where the persons will have to conform within the norms to be able to live and survive. While carrying out this review, I checked with a number of Afghan networks in the diaspora to find out if there are known cases of asylum seeking on the basis of LGBT, and the answer was that there are none. This obviously does not mean such cases are not filed, but the fear of rejection and especially returning to, or being returned to, Afghanistan perhaps enforces applicants to keep their applications on this basis very hidden. Life for those who go public becomes impossible as in such cases it is not only the state but the society itself that is not ready to embrace and accept a person with LGBT identity. The article referred to below, which is most recent, provides first-hand details about life for female and male LGBT persons within Afghanistan and the threats that they face:

“There are lots of lesbian women but they can’t talk about it openly,” Zainab says. “In Afghanistan, being lesbian is seen as un-Islamic. If people found out, the result would be death. My family must never know.”

“In Afghanistan homosexuality is seen as shocking, as a negative phenomenon. If we are discovered, perhaps we could even get hanged,” he says.²⁰

²⁰ Arya Ahmadzai, October 7, 2016 Afghanistan LGBT community living under threat of death <http://www.bbc.com/news/world-asia-36884732> (accessed 20.10.2016)

<http://www.bbc.com/news/world-asia-36884732>

It is also crucial that measures should be taken to protect the identity of the applicant from publicity even within the UK as the person will not be welcomed even within the Afghan diaspora communities should everyone know he or she is identified as one of LGBT.

2.3.4 *In the country guidance case of AJ (Risk to Homosexuals) Afghanistan CG [2009] UKAIT 00001(5 January 2009) the Tribunal held that:* □

□□ *Though homosexuality remains illegal in Afghanistan, the evidence of its prevalence especially in the Pashtun culture, contrasted with the absence of criminal convictions after the fall of the Taliban, demonstrates a lack of appetite by the Government to prosecute (Headnote point 1 and paragraphs 57-59 and 61).*

Reviewing this part of the AJ (Risk to Homosexuality) report, there are some points that are invalid. For example:

- Homosexuality does exist in Afghanistan, perhaps in a different way than is understood and known in the West. People keep this private or within family most of the time.

- It is highly important to make a distinction between homosexuality and pedophilia, which is described as Bacha Bazi in Afghanistan's different regions.

- The point about 'prevalence of homosexuality in the Pashtun culture' is not valid, as the phenomena of sodomy or Bachabazi is common as much in the Northern region, where the majority of Tajiks and Uzbeks are living, as it is in the southern region where majority Pashtuns are living.

- The views of Dr Shah cannot simply be accepted to represent evidence in Afghanistan, because despite the close border that the Pashto speaking part of Pakistan has with Afghanistan, the socio-economic and cultural as well as legal contexts led to two different directions in the two countries on the question of LGBT. For instance, the point about the Eunuchs (Hijara) communities is completely invalid in the Afghan case, while in Pakistan it is very common and each major city has a community of Eunuchs. (Point 4. in paragraph 17. of the above report). Additionally, Dr Sha's point on 'Koni' as a term used in Pashto poetry is completely invalid. Pashto poetry is rich in terms of love and romance and in instances referring to the beauty of the young boy. But there are hardly Pashto poems seen with using an offensive term such as 'Koni'. This rather is a term used as a form of swearing common in all local languages of Afghanistan.

- In light of above points, it is suggested to add the following paragraphs instead of the above mentioned paragraphs:

"[...]Given the legal position concerning homosexuality, any open display of someone's homosexuality would be extremely dangerous. In seven years of frequent visits to Afghanistan I have never met any Afghan who would admit to being homosexual. The general opinion seems to be that homosexuality is a western phenomenon which does not exist in Afghanistan and that the few cases which do occur have to be punished harshly as a matter of Islamic law. In my opinion an openly gay man would be ostracised by society and would sooner or later come in conflict with the law. If convicted, the punishment would involve long imprisonment, perhaps even death.

[...] In conclusion, homosexuality is an offence under Afghan law. There is evidence showing that there have been convictions for homosexual conduct, thus confirming that the offence does not

only exist on “paper”. In my opinion it would be quite impossible to be openly gay in Afghanistan because of societal disapproval and official prosecution.” (Paragraph 21, points 13 and 14)

2.3.6 Social acceptance of non-conforming sexual orientation and gender identity is low. Men who have Sex with Men (MSM) is taboo and is often associated with sexual abuse, paedophilia and prostitution. Persons identifying as LGBT, and who are open about their sexuality or gender identity, are likely to be ostracised by their family and may face becoming a victim of an “honour” killing. In a conformist society, getting married and having children is expected regardless of the person’s sexuality or preferences. LGBT people also face violence, assault, rape, and arrest (see Position in Afghan society).

Further reference to this point should be included as a footnote:

How Afghanistan’s mixed messages on homosexuality play into the Orlando (USA) shooting debate

<https://www.washingtonpost.com/news/worldviews/wp/2016/06/15/how-afghanistans-mixed-messages-on-homosexuality-play-into-the-orlando-shooting-debate/>

Afghanistan LGBT community living under threat of death
<http://www.bbc.com/news/world-asia-36884732>

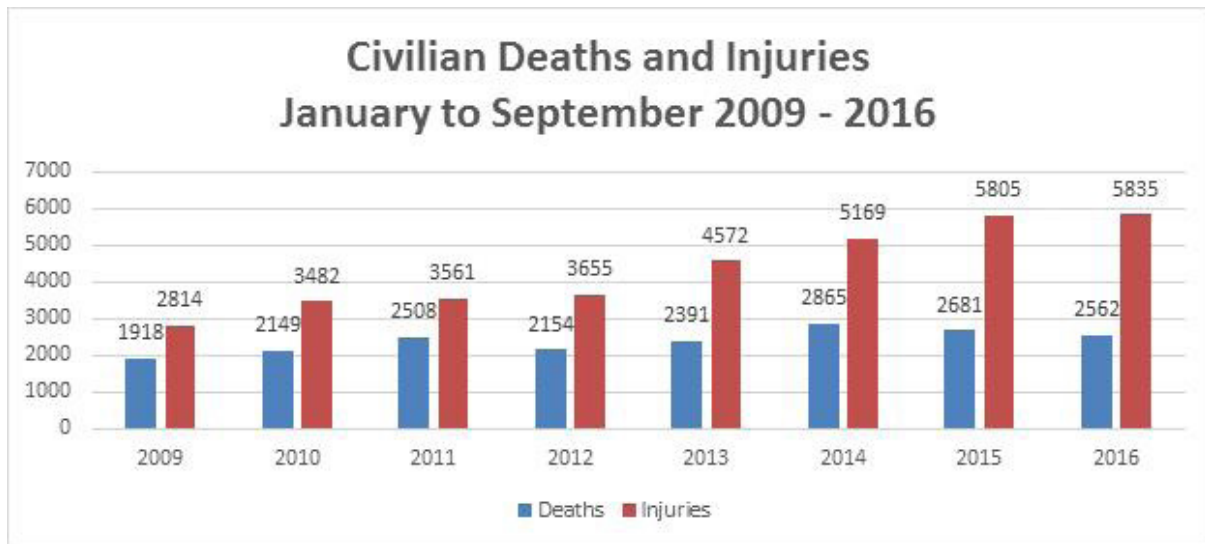
2.3.7 However it should be noted that in the country guidance case of AJ (Risk to Homosexuals) the Tribunal found that:

- *Some conduct that would be seen in the West as a manifestation of homosexuality is not necessarily interpreted in such a way in Afghan society (Headnote point 2 and paragraph 57).*
- *So far as non-state actors are concerned, a practising homosexual on return to Kabul who would not attract or seek to cause public outrage would not face a real risk of persecution (Headnote point 4 and paragraphs 58 and 61).*
- *If some individual, or some gay lobby, tried to make a political point in public or otherwise behaved in a way such as to attract public outrage, then there might be a sharp response from the Government (Headnote point 5 and paragraph 54).*
- *The evidence shows that a considerable proportion of Afghan men may have had some homosexual experience without having a homosexual preference. A careful assessment of the credibility of a claim to be a practising homosexual and the extent of it is particularly important. The evaluation of an appellant’s behaviour in the UK may well be significant (Headnote point 8 and paragraph 57).*

It is suggested that some of the above-mentioned points in the AJ case, are no longer valid for the following reasons:

The AJ case assessment was valid for 2009, and between 2009 – 2016 the security situation has deteriorated severely across Afghanistan.²¹

²¹ UNAMA, 19th October, 2016. UNAMA Releases Civilian Casualty Data for Third Quarter of 2016 <http://unama.unmissions.org/unama-releases-civilian-casualty-data-third-quarter-2016> (accessed 20.10.2016)



The Case of Farkhunda's killing in public and in the presence of police is a good example of what could happen to someone who is accused of violations whether or not there is any evidence.²²

Nemat Sadaat was an American University Professor who went only public in social media about his identity as being gay and he had to leave the country within hours or else face prosecution. <http://edition.cnn.com/videos/world/2016/06/13/orlando-intv-afghanistan-amanpour-nemat-sadat.cnn>

The key point for those asylum seekers on the basis of their sexual identity is that once they have publicly declared their identity, it is highly risky for them to reintegrate in the society.

2.3.8 Whilst the situation in Afghanistan has changed politically and with regards to the security situation, the situation for gay men largely remains consistent in respect of the evidence considered by the Tribunal in AJ (Risk to Homosexuals).

I am not sure why in this paragraph 'gay men' are highlighted and not lesbian women for instance. My suggestion will be to amend this paragraph as follows:

2.3.8 Whilst the situation in Afghanistan has deteriorated politically and with regards to security, the situation for LGBT persons, among other vulnerable groups, largely remains consistent in respect of the evidence considered by the Tribunal in AJ (Risk to Homosexuals) and some reporting quoted above (BBC, 2016 <http://www.bbc.com/news/world-asia-36884732>)

2.3.9 For the position of women in society in general, see the Country Information and Guidance Afghanistan: Women fearing gender-based harm and violence.

Given that this above report may also be reviewed, the link should be connected to the reviewed version dated for October 2016.

2.5 Internal relocation

²² See this link for full details on Farkhunda's case who was falsely accused of burning Quran, another forbidden act, and she was beaten up, stoned, the angry mob drove a 4x4 car over her injured body, then dropped her lynched body into the Kabul river. https://en.wikipedia.org/wiki/Murder_of_Farkhunda (accessed 18.10.2016)

2.5.1 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 (see also the Country Information and Guidance Afghanistan: Security and humanitarian situation).

In my opinion, the chances for internal relocation within Afghanistan for the LGBT persons, once their claim is approved and verified, is out of question, as their sexual orientation and identity is neither accepted by the society nor by the state. If the person has not been identified as LGBT, then the nature of the case could be different.

2.5.3 With regard to those in fear of non state actors, the Tribunal held in AJ (Risk to Homosexuals) Afghanistan CG [2009] UKAIT 00001 that:

- A homosexual may be relatively safe in a big city (especially Kabul) and it would take cogent evidence in a particular case to demonstrate otherwise. The position in smaller towns and in rural areas could be different and will depend on the evidence in a specific case (Headnote point 6 and paragraphs 61 and 62).
- Relocation to Kabul is generally a viable option for homosexuals who have experienced problems elsewhere, though individual factors will have to be taken into account (Headnote point 7 and paragraph 62).

To reiterate the earlier point, the situation of some of the contextual circumstances has changed or has deteriorated since the Risk to Homosexuals report was written in 2009. Kabul has proved not to be safe for people who have expressed and announced their sexual identity. One significant example is Nemat Sadat, a young gay professor at AUAF (American University of Afghanistan).²³

In sum, Afghanistan's political instability, overall insecurity and increase in mob-violence – the most known case of which being Farkhunda's lynching in downtown Kabul – confirms that the situation could easily go out of control if there is a person who is at risk of being publicly prosecuted or lynched publicly. Hence, to avoid such catastrophes it is not recommended to return applicants whose asylum claims are on the basis of their sexual orientation.

2.5.4 It has been noted that persons convicted of homosexuality in cities are generally sentenced to prison (rather than subject to Sharia law in rural areas).

In this paragraph, it is suggested that **persons** is replaced by **men**, as often the arrested persons are men. There are cases of Zena (Adultery between men and women) for women, but it is not commonly known that women are imprisoned for being homosexual or lesbian so far. AJ (Risk to Homosexuals in Afghanistan CG [2009] UKAIT 00001 Paragraph 28.)

2.5.5 For the position of women in society in general, see the Country Information and Guidance Afghanistan: Women fearing gender-based harm and violence

The link on this points needs to be updated after this review.

2.5.7 For further guidance on considering internal relocation, see section 8.2 of the Asylum Instruction on Assessing Credibility and Refugee Status.

²³ Ghanizada, October 26, 2013 Afghan Man Admits His Homosexuality [Http://Www.Khaama.Com/Afghan-Gay-Comes-Out-Of-Closet-3013](http://www.khaama.com/Afghan-Gay-Comes-Out-Of-Closet-3013) And Nemat Sadat, October 2015, Afghanistan's Gay Revolution Can Liberate The Muslim World [Http://Journal.Georgetown.Edu/Afghanistans-Gay-Revolution-Can-Liberate-The-Muslim-World/](http://Journal.Georgetown.Edu/Afghanistans-Gay-Revolution-Can-Liberate-The-Muslim-World/) (Accessed On 18.10.2016)

This point in the above document does not cover particular circumstances of persons with sexual identities such as LGBT and it only refers to gender-specific cases which may only cover women. It has to be mentioned that gay men are in a vulnerable position to be relocated internally particularly if their cases become known publicly.

To sum up, there is ample evidence that goes against the idea of internal relocation for LGBT persons.²⁴

3. Policy summary

3.1.2 The courts have held that some conduct that would be seen in the West as a manifestation of homosexuality is not necessarily interpreted in such a way in Afghan society. The evidence shows that many Afghan men, particularly from the Pashtun belt, may have had some homosexual experience without having a homosexual preference. A careful assessment of the credibility of a claim to be a practicing homosexual is particularly important.

In this point, reference on essentializing the experience of homosexuality to one particular ethnic group (Pashtuns) is not relevant. The assertion that this form of homosexuality is ‘particularly from the Pashtun belt’ is irrelevant due to the fact that homosexuality is experienced by men also in northern Afghanistan where Tajik and Uzbek ethnicities reside as majority.²⁵

3.1.3 An openly LGBT person in Afghanistan is likely to face adverse attention from society in general; family rejection including being at risk from an “honour” killing. They may also be unable to access health services and could be fired from their jobs on the basis of their sexual orientation. However, in respect of non-state actors, a practicing gay man who, on return to Kabul, would not attract or seek to cause public outrage, would not face a real risk of persecution.

If the LGBT person is female or is a man with what may be seen as a feminine character, life is not secure and safe.

8. Legal context

The legal context is very comprehensive and fully referenced. I do not have particular comment on this part.

9. Position in Afghan society

It is recommended to add the following as 5.2.1 and then continue with numbering:

5.2.1 On June 2016 Omar Mateen, a US citizen born to parents who migrated from Afghanistan in 1980s have opened fire shooting at a Gay nightclub in Orlando, Florida killing at least 49 people and injuring dozens before he was shot dead by the police. The reaction from Mateen’s father to the event was as follows:

²⁴ The video on this link provides an example of how LGBT persons are humiliated and tortured while under police custody for the fact of being like they are. <https://www.youtube.com/watch?v=dfE90ZnrkCU> (accessed 17.10.2016). It can be confirmed that the video is verified to be filmed in Afghanistan, background conversation is question and answer between the arrested men (one of them gay) and the police. He is asked to strip off all his clothes in front of the camera.

²⁵ Maximilian C. Forte, December 2010, Afghanistan: The Imperial Occupation’s Own Dancing Boys <https://zeroanthropology.net/2010/12/28/afghanistan-the-imperial-occupations-own-dancing-boys/>

On June 13, Seddique posted on Facebook that he was “saddened by his son’s actions during the Muslim holy month of Ramadan,” as translated by CBS News. But then he goes onto say, “God will punish those involved in homosexuality...not an issue that humans should deal with.”²⁶

Mateen’s father also refers to an event that he thinks might have triggered and linked to the massacre:

“Seddique [Father] said Mateen was enraged when he saw two men kissing a couple of months ago in Miami, and suspects the incident has something to do with the massacre.”²⁷

Later, Mateen’s gay lover appears into the news informing the world that Mateen was his gay partner, who told him he was forced into an arranged marriage. This person indicated that the tragedy might have linked to Mateen’s revenge from having been betrayed by HIV positive partners.²⁸

The story of the tragic incident that resulted in a massacre indicates the depth of complexity of persons with LGBT identity even outside Afghanistan, let alone in the country. Mateen’s father’s reaction about homosexuality is targeted at an Afghan audience on his Facebook (which has been removed since).²⁹

5.2.4 Nemat Sadat, an Afghan born in Kabul, moved to the US and wrote a piece for Out Magazine on 21 February 2014. He stated ‘My coming out launched a hurricane upon my landlocked country of origin where homosexuality can be penalized with the death penalty....I received thousands of death threats from angry Afghans who were flabbergasted about my insistence that I’m both a proud homosexual and a Muslim.’

Further reference to information about Nemat Sadat is recommended:

“Despite Death Threats A Gay Leader Emerges In Afghanistan”: <http://www.corcoranproductions.com/despite-death-threats-a-gay-leader-emerges-in-afghanistan/> (accessed 21.10.2016).

5.3 Lesbians

It is recommended to add the following point to 5.3.

5.3.1. On October 7, 2016 BBC World Asia Desk produced a brief interview with Afghan LGBTs that was filed inside the country. The film does not show the women faces, but it confirms the fact that Lesbian Afghans have presence in Afghanistan, despite enormous challenges and that at least one was ready to speak out to a journalist about her feelings towards another woman.³⁰

5.4 Transgender and transsexual persons

Please find my comments in parts of this point.

26 Jennifer Dzikowski, June 22, 2016 11:24am Mir Seddique, Omar Mateen’s Father: 5 Fast Facts You Need to Know. <http://heavy.com/news/2016/06/mir-seddique-omar-mateen-father-son-afghanistan-orlando-mass-shooting-family-reaction/> (Accessed 21.10.2016)

27 Ibid.

28 Nick Allen, June 22, 2016 5:14PM, ‘Omar Mateen’s ‘gay lover’ claims Orlando shooting was revenge against HIV-positive partner’, <http://www.telegraph.co.uk/news/2016/06/22/omar-mateens-gay-lover-claims-orlando-shooting-was-revenge-again/> (accessed 21.10.2016)

29 Also see Akhilesh Pillalamarri, June 15, 2016 Afghanistan’s Love-Hate Relationship With Homosexuality <http://thediplomat.com/2016/06/afghanistans-love-hate-relationship-with-homosexuality/> (accessed 21.10.2016)

30 Arya Ahmadzai, October 7, 2016 Afghanistan LGBT community living under threat of death <http://www.bbc.com/news/world-asia-36884732> (accessed 20.10.2016)

5.4.1 An article published in February 2008 in the *Seattle Times* referred to the important role that eunuchs and cross-dressers have traditionally played in the culture of Pashtuns, cited as the main ethnic group in Pakistan's northern tribal areas and in the southern half of Afghanistan.

Note: This article above is analyzed somehow out of context. As the article is not about the 'importance of eunuchs in the 'Pashtoon culture' but rather about a first attempt by a person with eunuch identity to run for a political position. Given the higher population of Pakistan, eunuch communities have a visible presence not only in KPK but across all main states of Pakistan. For instance, in Karachi, their activism led to add a third gender choice in the National ID card in addition to male and female.³¹

According to an April 2002 report in the Los Angeles Times on homosexuality in Afghanistan, many Pashtun men wear kohl pencil, henna their nails and wear "high-heeled sandals."

Again, the writer expressed a particular interest to keep bringing the Pashtun men's or Pashtun ethnicity into play. There is enough evidence that homosexuality exists across Afghanistan regardless of ethnicity, geography and people's tribal identities. When it comes to looking at this phenomenon, the fear of highlighting homosexuality among one group is that those victimized as homosexuals in other parts of Afghanistan will be ignored and sub-ordinated. So it is suggested to omit and rephrase these points differently.

Here is a suggested point.

5.4.1. Transgender persons also known as eunuchs often are victims of abuse and dance in the male only wedding ceremonies. Unlike Pakistan, in Afghanistan they are not living in a particular community. The position of transgender persons could be exemplified by video that is shared through YouTube showing the arrest of two persons, one of whom is forced to strip off in front of the camera. In November 2011, reporting on the harassment by police of a male cross-dresser, *The Guardian* identified the term "ezak" as 'a vague but deeply derogatory noun referring to anything from a eunuch or a hermaphrodite to a transvestite or a male homosexual.'

10. Civil society organisations

An additional point could be added under this section:

7.1.3 Despite the fact that so far no organisation among NGOs is openly and publicly providing support to LGBT community, if persons belong to this community, particularly women, contact organisations working on women's health and protection, they receive such services. Often the sexual orientation and identity of the person is kept confidential within the organisation to protect both the person as well as the organisation from public reactions.³²

Review of responses to COI requests

I as the reviewer confirm that all information I have used for this report are referenced and analysed based on my best knowledge and in cases I have used personal views, I have mentioned it.

³¹ Rabail Baig, March 30, 2012 [A first for Pakistan's third gender](http://foreignpolicy.com/2012/03/30/a-first-for-pakistans-third-gender/) <http://foreignpolicy.com/2012/03/30/a-first-for-pakistans-third-gender/> (accessed on 17.10.2016)

³² Based on conversation with a women rights activist who does not want to be named for security reasons.

Information about the Reviewer

Dr Orzala Ashraf Nemat has graduated from SOAS Development studies. Her Doctoral thesis focused on the study of power relations that emerge as a result of external interventions in the Afghan villages. Dr Nemat has long been involved in human rights and women's rights campaigns in Afghanistan. During 2015- 2016 she taught courses on Development Practice and Conflict and Development for MA and BA studied in Development Studies. She is a well-known Afghan for her stand on justice, women's rights and democratic reforms in governance relations in Afghanistan. Since August 2016, Dr Nemat is back in Afghanistan and involved in her research and policy advise on local governance reforms.

A3: Sudan Country of Origin Information requests; Failed Asylum Seekers; and “Sur Place” activities

Review of the UK Home Office Country Information and Guidance reports on ‘Sudan: Failed asylum seekers’ (August 2016), and ‘Sudan: ‘Sur place’ activity in the UK’ (August 2016) and 8 Responses to Country of Origin Information (COI) Requests on Sudan

Prepared for the Chief Inspector of Borders and Immigration & the Independent Advisory Group on Country Information (IAGCI)

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4. Introduction

4.1 Purpose of the review

This review provides a commentary on the August 2016 Country Information and Guidance (CIG) reports for ‘Sudan: Failed asylum seekers’ and ‘Sudan: ‘Sur place’ activity in the UK’ produced by the UK Home Office. It also examines responses to eight individual Country of Origin Information (COI) Requests (from now on referred to as COI Requests) on Sudan. The review is commissioned by the Independent Advisory Group on Country Information (IAGCI), and is therefore drafted in line with instructions received from the IAGCI Chair.

This review aims to:

- (i) Assess the extent to which information from source documents has been appropriately and accurately reflected in the two CIG reports and the eight COI Requests, taking into consideration the stated ‘cut off’ date for inclusion of information;
- (ii) Identify additional sources in respect of the two CIG reports detailing the current human rights situation in Sudan with respect to the main issues raised in asylum claims made by Sudanese nationals;
- (iii) Note and correct any specific errors or omissions of fact;
- (iv) Make recommendations for general improvements regarding, for example, the structure of the reports and requests, its coverage or its overall approach.

The scope of the review is to exclusively focus on the COI contained within the documents and not to pass any judgement on the policy guidance provided.

5. Overall comments

5.1 Summary of findings

The review has been carried out using well-established COI quality standards as a benchmark. These are:

- Relevance
- Reliability and Balance
- Accuracy and Currency
- Transparency and Traceability.³³

5.1.1 CIG for Sudan: Failed asylum seekers (August 2016)

On the whole, the COI included in this CIG is relevant, reliable, balanced and up-to-date given the limited information available on this particular issue in the public domain.

Improvements are proposed to the accuracy, transparency and traceability of the referenced sources by

³³ See Austrian Red Cross, Austrian Centre for Country of Origin & Asylum Research and Documentation (ACCORD), [Researching Country of Origin Information, Training Manual, 2013 edition](#), 2013, 2 *COI Quality Standards and Principles* and European Union, [Common EU Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008

ensuring that page numbers/section headings are included where necessary and that the correct and/or relevant hyperlinks are provided.

Further recommendations are made in relation to adding a sub-section on the 'situation and treatment of detainees' given that failed asylum seekers may face imprisonment upon return to Sudan.

It is also recommended to include both the actual hearing date as well as the promulgation date of country guidance cases included in the CIG. This would assist the COI research of CIG users.

For specific comments on this particular CIG, see section '3.1 Sudan: Failed asylum seekers (August 2016)' below.

Suggestions relating to the CIGs:

1. Where possible include page numbers and/or section headings in footnotes
2. Ensure the correct and/or relevant hyperlink to the specific report referenced is provided in footnotes
3. Ensure that all issues of relevance to the particular profile are covered. If the issue is included in another CIG, cross-references should be made to that effect.
4. A CIG should include the most up-to-date COI available, including the latest annual reports
5. In order to assist the further COI research of CIG users, ensure that hearing dates as well as promulgation dates are included of referenced country guidance cases.
6. It is suggested to include relevant European Court of Human Rights judgements.

5.1.2 CIG for Sudan: 'Sur place' activities in the UK (August 2016)

Overall, the COI included in this CIG is relevant and reliable given the limited information available on this particular issue in the public domain. However, it appears that the latest annual reports, available at the time of publication, have not been included and very limited information has been included on the particular issue of treatment of opposition members, which respectively affects the currency and balance of COI provided. Moreover, in two instances assertions are made by the author of the CIG which are not substantiated by the COI included.

Improvements are proposed to the accuracy, transparency and traceability of the referenced sources by ensuring that page numbers/section headings are included where necessary and that the correct and/or relevant hyperlinks are provided.

Further recommendations are made in relation to adding a sub-section on the 'situation and treatment of detainees' given that this particular profile is likely to face imprisonment upon return to Sudan. Additional information is suggested that demonstrates the wide international reach of surveillance conducted by the National Intelligence and Security Service (NISS) and highlights the equipment and capabilities of the NISS to monitor Internet communication.

It is also recommended to include both the actual hearing date as well as the promulgation date of country guidance cases included in the CIG, as well as relevant determinations of the European Court of Human

Rights. This would assist the COI research of CIG users.

For specific comments on this particular CIG, see section '3.2 Sudan: 'Sur place' activity in the UK (August 2016)' below.

5.1.3 Responses to COI Requests

In general, the COI presented in the COI Requests is accurate, current, balanced, reliable and representative of the COI available at the time of publication. It is considered that clarity and user-friendliness could be improved by the presentation of the material, that is by presenting the relevant COI under each of the questions posed, rather than under more general headings applicable to multiple questions, or by further subdividing broad questions posed. In several of the COI Requests the CPIT did not provide any COI, despite relevant COI available at the time of publication of the COI Requests being readily available and in one instance the issues under investigation were considered very narrowly. On only one occasion was COI presented without a reference and only once was a blog not referred to as such.

For specific comments on the individual COI Requests, see section '4. Review of Responses to COI Requests: specific comments'.

Suggestions relating to the COI Requests:

1. Present the relevant COI directly under the questions posed in the COI Request and not create new broader headings
2. Further subdivide broad questions posed e.g. separate out state and societal treatment of a particular profile
3. To aid location of difficult-to-find information, researchers should look for alternative spellings of proper nouns and use these as search terms, as well as search Google images for e.g. for the existence of ID cards
4. When no specific information is found on a particular issue, consider broadening out the search term to include some relevant COI rather than no information or consider consulting relevant organisations and/or country experts.

5.2 Understanding of the themes addressed in the CIG Reports in relation to 'Failed asylum seekers' and 'Sur place' activities in the UK

As highlighted in the summary section above and the specific comments below in relation to reviewing these two CIGs on Sudan, overall they provide a balanced and accurate account of the relevant issues in relation to 'Failed asylum seekers' and 'Sur place' activities. However, they both fail to include information on the situation in detention and treatment of detainees which

is surprising given that both CIGs include COI that document the likelihood of these particular profiles being arrested and detained.

5.3 Quality and balance of sources

Overall, the sources included in the CIGs have provided a balanced and accurate view on the situation and treatment faced by failed asylum seekers and those involved in ‘sur place’ activities in the UK, upon their return to Sudan. Despite relatively limited information being available in the public domain on these two issues, the information included was selected from a range of sources and provided a balanced representation of the information available. Some additional information from the selected sources could have been added, but more importantly additional information should have been included on the situation and treatment of detainees.

6. Review of CIGs on Sudan: specific comments

6.1 Sudan: Failed asylum seekers (August 2016)

General observations

1. For ease of reference and improved transparency it is recommended that the footnotes contain the relevant page number(s) and/or section headings, where applicable. For example, in the below case the information is taken from Table 12 on page 76 of the source referenced in footnote 3:

4. Commission of Refugees / National Intelligence and Security Services [...]

4.1.2 A report from International Organisation for Migration (IOM), dated 2011, listed the responsibilities of the Ministry of Interior’s Commission of Refugees (COR):

‘Protecting, registering, counselling and providing material assistance and documents to foreign refugees at different administrative stages and all along their staying in the country. [...] ... Scrutinizing the requests of asylum in coordination with UNHCR [...] ... Management of refugees camps. [...] ... Undertaking or supporting awareness and information campaigns in coordination with other national and international institutions. [...] ... Following-up on the situation of Sudanese refugees abroad according to existing regulations. [...] ... Data collection, compilation of statistical reports studies on refugees.’³[...]

3 IOM, Migration in Sudan: A Country Profile 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/D2ECC0D6226DF41DC1257842003973F1-Full_Report.pdf Date accessed: 19 June 2015

2. The hyperlink provided in footnote 10 to the U.S. Department of State annual report is not to the Sudan chapter of the 2015 annual human rights report:

10 US State Department, 2015 Human Rights Report, Sudan, Section 1d, , <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>. Date accessed: 27 June 2015

Instead it links to the ‘Secretary’s Preface’ for the ‘Country Reports on Human Rights Practices for 2015’. To ease access and user-friendliness it is recommended that the direct (and permanent) link to the report be provided as follows:

10 US State Department, 2015 Human Rights Report, Sudan, Section 1d, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252733>. Date accessed: 18 October 2016

3. It has been noted that the presentation of some information suggests that only excerpts have been included from that source when in fact the whole text has been cited in the CIG. To exemplify, in paragraph 4.1.6 the use of ellipses suggests that additional text from the original source has not been included:

4.1.6 Amnesty International, in a report on NISS dated March 2015, noted:

‘As the Sudanese National Intelligence and Security Service (NISS) intensifies its crackdown on the freedoms of expression, assembly and association in Sudan, it provides an ominous warning about human rights in the context of upcoming general elections in April [2015]. ... Since January 2015, at least 16 newspapers have had their publications confiscated on 42 different occasions by NISS. Four leading civil society organisations have been shut down with at least five others under threat of imminent closure. Several journalists report interrogation and harassment by the police and NISS agents. There is no legal basis or rationale for these actions by NISS other than to quell dissent and criticism of the National Congress Party as the general elections approach.

‘Though the NISS has for the last decade perpetrated human rights violations with impunity, its current human rights violations have reached unprecedented levels. The NISS has used excessive and sometimes lethal force in breaking up demonstrations, protests and rallies as well as office raids and confiscations of newspapers, perpetrated arbitrary arrests and deliberately targeted ethnic and religious minorities.

‘Between 2012 and 2014, the NISS arrested human rights defenders, students, activists, political opponents and journalists en masse. Most of those arrested were subsequently released without trial, but a few have been kept incommunicado, outside the protection of the law and vulnerable to torture and other forms of ill-treatment. Human rights violations committed by NISS agents are seldom investigated by the Sudanese authorities.

‘In January, the Sudanese Parliament passed amendments to the Interim Constitution, including one extending the NISS’ mandate. The amendment to Article 151 transforms the NISS from an intelligence agency focused on information gathering, analysis and advice, to a fully-fledged security agency with a broad mandate to exercise a mix of functions usually carried out by the armed forces or law enforcement agencies. By expanding the NISS’s mandate, Parliament has not only endorsed its methods but rewarded its performance. ... Conferring an intelligence agency such as the NISS with such a mandate, in addition to its already extensive powers of arrest, detention, search and seizure under the National Security Service Act (NSA), is particularly alarming in the context of the upcoming general elections in April. During the 2010 general elections, the NISS used intimidated, arrested and detained opposition candidates, voters and human rights defenders. They have the power to do a lot more now.

‘... [T]he new NISS is now a super-agency that can respond to any political, economic or social threat. It now has the unlimited discretion to decide what is or isn’t a danger, including the legitimate exercise of freedom of expression, assembly and association. ... The “new” relationship between the NISS, the military and law enforcement agencies is not articulated. The NISS is already deployed both militarily and in law enforcement. There is a risk that the NISS’s mandate, cutting across intelligence, military and law enforcement spheres, could also undermine or unduly interfere with ordinary police work thus enhancing dysfunction in the criminal justice system.’

However, in reality the full text has been included from the original source.

4. It should be noted that certain sources included in this CIG could not be reviewed as its content was either not available in the public domain or not available in English. For example the report by Landinfo, Sudan: Scope of political activity critical to the regime, of 11 November 2013. However, the footnote usefully noted that the English translation could be made available upon request.

Perhaps in future these could be automatically shared with the IAGCI reviewer?

Case law

It is recommended that not only the promulgation date but also the hearing date of country guidance (CG) determinations be included in the CIG. This would allow decision-makers and COI researchers alike to target their case-specific research and research requests post-hearing for COI that was not considered in the case.

For example, the most recent CG case on Sudan, [IM and AI \(Risks - membership of Beja Tribe, Beja Congress and JEM : Sudan\) \(CG\) \[2016\] UKUT 188 \(IAC\) \(14 April 2016\)](#) was promulgated on 14th April 2016, but the actual hearing took place on 4th November 2015, meaning that updated COI should be sought from the earlier date.

4. Commission of Refugees/National Intelligence and Security Services

The source mentioned in footnote 8 as part of the information included in paragraph 4.1.5 is incorrectly referenced and a wrong hyperlink is provided:

4.1.5 Sources consistently highlighted NISS as responsible for significant human rights violations in Sudan. The British Embassy letter dated 19 February 2015 explained:

‘Allegations of mistreatment amounting to cruel and inhumane treatment or torture by NISS are a matter of public record. ... Without prejudice to comments above about allegations of mistreatment attributed to NISS, it is important to note that such detentions are an extremely common occurrence and it should not be assumed that everyone detained would be subject to same sort of treatment. The treatment received could be determined by a number of factors including, but not limited to: the nature of the accusations; public and international profile; age; family connections; and, ethnic background.’⁸

⁸ British Embassy in Khartoum, Deputy Head of Mission, 19 February 2015, Annex A

Instead the footnote should read: British Embassy in Khartoum, Deputy Head of Mission, 19 February 2015, copy available in annex to [country information and guidance on sur place activity](#).

It is further proposed that this particular letter written by the British Embassy in Khartoum in February 2015 to update on the situation of failed asylum seekers in Sudan be also attached as an Annex to this specific CIG on failed asylum seekers. In addition, letters mentioned in footnotes 22 -28 and referenced to the August 2016 CIG on ‘Sudan: ‘Sur place’ activity in the UK’ should also be attached in an Annex to this particular CIG.

5. Treatment of returnees

1. The hyperlink provided in footnote 11 to the 2006 UNHCR guidelines is incorrect:

11 UNHCR Position on Sudanese asylum-seekers from Darfur, February 2006, <http://www.refworld.org/mwg-internal/de5fs23hu73ds/progress?id=FcfJyGtjnK>. Date accessed: 26 June 2015

Instead it should be as follows: <http://www.refworld.org/docid/43f5dea84.html>

2. Information included in paragraph 5.1.4 from the 2012 Waging Peace report is incomplete:

5.1.4 In their 2012 and 2014 reports, the UK NGO Waging Peace published testimonies of failed asylum seekers who claimed they had been harassed and mistreated on return to Khartoum. The 2012 report included the cases of Mr M, Mr A and Badaoui Malik Badaoui. All of these people claimed to be from conflict areas and/or affiliated to opposition or rebel groups.

The 2012 report by Waging Peace actually also included three additional testimonies by Mr Y, Mr X and Mr Magdy El Baghdady, the latter who is mentioned in the subsequent paragraph 5.1.6. By not referring to these additional individuals and not mentioning their experiences of harassment and mistreatment in prison upon their return to Sudan, the testimonies collected by Waging Peace are incompletely represented in this CIG and reflect a sense of selectivity on behalf of the author of this CIG. The CIG further fails to include important information from the 2014 updated report by Waging Peace to its previous report, published in 2012, as follows:

- Waging Peace, [*The Long Arm of the Sudanese Regime: How the Sudanese National Intelligence and Security Service monitors and threatens Sudanese nationals who leave Sudan*](#), September 2014
[...] Introduction [...]
Compiled over the last year and a half, this research provides a new assessment of the risk of returning to Sudan for those who are forcibly sent back. It looks at the surveillance by the NISS on nationals outside Sudan and the impact such activity has on Sudanese who return to their country, building on our September 2012 report 'The Danger of Returning Home'. In this we predicted that further cases of intimidation and human rights abuses by the Sudanese security services would emerge. Here we publish testimonies from eleven individuals that sadly confirm our prediction. They testify that Sudanese in the UK are being monitored by the Sudanese government and that they have been asked about their activities in Europe while being interrogated in Sudan. The testimonies, included in full in the Annexes of the report, show that Sudanese from across Sudan and from all sections of society may be at risk because they have spent time outside of Sudan: men and women; the rich and the poor; those from the capital as well as those from Darfur and the Nuba Mountains; politicians as well as farmers. The report also includes a review of recent publicly available information about the monitoring of Sudanese Diaspora by the Sudanese regime in the UK, Norway, France, Egypt, Uganda, Eritrea and Israel [...]

3. Information included at paragraph 5.1.10 should be removed as it is a repetition of information included at paragraph 5.1.8.

6. Returns statistics

It is unclear how including statistics on the enforced removals and voluntary departures of Sudanese nationals in the period 2004 to 2015 to mainly third countries, i.e. other EU states, can be of assistance to decision-makers making a decision on those Sudanese who fear the Sudanese authorities specifically for making an unsuccessful claim for asylum in the UK. It is recommended that such superfluous and potentially misleading information within this context be removed.

Sub-sections missing and additional sources

1. It is recommended that COI be included on the **situation and treatment of detainees**, given that the COI included in this CIG highlights that failed asylum seekers may face imprisonment on return and be exposed to mistreatment, particularly given that such information is not included in any other CIG published on Sudan. Suggested but not exhaustive sources available pre-publication of the CIG include:
 - Act for Sudan; Alkarama Foundation; KACE - Al Khatim Adlan Centre for Enlightenment and Human Development; African Centre for Justice and Peace Studies; AI - Amnesty International; Cairo Institute for Human Rights Studies; et al., [Sudan: Letter from 36 NGOs and individuals regarding the human rights situation in advance of the 33rd session of the UN Human Rights Council \[AFR 54/4795/2016\]](#), 8 September 2016
 - Danish Immigration Service and UK Home Office, [Sudan; Situation of Persons from Darfur, Southern Kordofan and Blue Nile in Khartoum; Joint report of the Danish Immigration Service and UK Home Office fact finding missions to Khartoum, Kampala and Nairobi Conducted February – March 2016](#), August 2016, 3.4. Treatment upon arrest
 - The International Center for Not-for-Profit Law, [Civic Freedom Monitor: Sudan](#), last updated 19 August 2016
 - UN Human Rights Council (formerly UN Commission on Human Rights), [Report of the Working Group on the Universal Periodic Review; Sudan \[A/HRC/33/8\]](#), 11 July 2016
 - Human Rights Watch, [Students, Activists at Risk of Torture](#), 25 May 2016
 - U.S. Department of State, [Country Reports on Human Rights Practices for 2015: Sudan](#), 13 April 2016, sections 1c and 1d
 - Human Rights Watch, [‘Good Girls Don’t Protest’: Repression and Abuse of Women Human Rights Defenders, Activists, and Protesters in Sudan](#), March 2016
 - Amnesty International, [Sudan: Dire Human Rights Situation Continues; Amnesty International Submission to the UN Universal Periodic Review, May 2016 \[AFR 54/3532/2016\]](#), 26 February 2016
 - African Centre for Justice and Peace Studies (ACJPS), International Federation for Human Rights (FIDH), and International Refugee Rights Initiative (IRRI), [Submission to the Universal Periodic Review of Sudan 2016](#), September 2015
 - African Centre for Justice and Peace Studies, [Sudan: On the international day in support of torture survivors, end torture and repeal enabling legislation](#), 26 June 2015
 - Hands off Cain, [The 1991 penal code based on Sharia law prescribes both the death penalty and corporal punishment](#), 1 January 2015

Additional useful source available post-publication is:

- Amnesty International, [*Sudan must end violations of international human rights and humanitarian law and promptly investigate all allegations of torture, ill-treatment, arbitrary detention and excessive use of force; Human Rights Council adopts Universal Periodic Review outcome on Sudan \[AFR 54/4875/2016\]*](#), 22 September 2016
- Human Rights Watch, [*Sudan: No justice for protestor killings*](#), 22 September 2016

Additional suggested sources to consult when updating this CIG and including information on detention include, but are not limited to:

- [Association for the Prevention of Torture](#)
- [Hands off Cain](#)
- [International Rehabilitation Council for Torture Victims](#)
- [World Organisation Against Torture](#)
- [World Prison Brief](#), hosted by the Institute for Criminal Policy Research

2. It is interesting to note that the joint fact-finding mission report by the Danish Immigration Service and the UK Home Office, published in the August 2016, was not included in this CIG especially as it contains a sub-section on 'Returning failed-asylum seekers'. Given that the authors are the same, i.e. the UK Home Office, it should have been possible to coordinate the respective publication dates in order to include the fact-finding mission report into this CIG. Further, no mention of this report is made on the relevant Sudan country page of the Country Information and Guidance webpage. The relevant section reads as follows:

- Danish Immigration Service and UK Home Office, [*Sudan; Situation of Persons from Darfur, Southern Kordofan and Blue Nile in Khartoum; Joint report of the Danish Immigration Service and UK Home Office fact finding missions to Khartoum, Kampala and Nairobi Conducted February – March 2016*](#), August 2016
[...] 2 Treatment on arrival for persons from Darfur and the Two Areas [...]

2.2 Returning failed asylum seekers

A number of sources stated that they had no information to indicate that failed asylum seekers / returnees from Darfur or the Two Areas would generally experience difficulties on return to Khartoum International Airport (KIA), or they did not consider that claiming asylum overseas would put such a person at risk per se. Western Embassy (C) noted that they had monitored the forced return of two persons from Europe in 2015 and had no reason to believe that they experienced any difficulties or mistreatment, although the source acknowledged that they were not present throughout the arrival procedure. The diplomatic source mentioned that they had experience of a very few rejected asylum seekers being deported from Switzerland and Norway.

According to the source it was unclear whether these returnees could get support upon return to Sudan. However the source added that those sent back from Norway had not faced any problems upon return.

Some sources noted:

- a lack of coordination in the return operations from departing countries to inform those concerned when precisely returnees would arrive at KIA
- a general absence of independent organisations at KIA, including UNHCR, when forcibly returned persons arrived in Sudan, although IOM was present for voluntary returns

- a limited number of enforced returns from Europe

EAC advised that at the security desk, officers asked a range of questions of failed asylum seekers returning to Sudan (for instance about how long they had stayed abroad; why they did not have a passport; or political affiliations and acquaintances abroad). ACPJS remarked that persons returning without travel documents or under escort would be subject to questioning.

Several sources noted that Israel and Jordan had deported a number of Sudanese nationals, including persons who had claimed asylum. Sources mentioned that the most recent incident was in December 2015 and involved the large-scale deportation of Sudanese nationals from Jordan, with some sources indicating the number of persons deported was over 1,000 persons.

Some sources noted that deportees from Israel and some of the deportees from Jordan were arrested on arrival and detained, some may have experienced prolonged detention or physical mistreatment and/or were placed on reporting arrangements or travel restrictions. Other sources noted that returnees from Jordan had been processed smoothly. There is however lack of detailed, accurate information regarding these events, including information on whether these deportees have been de facto refugees.

UNHCR was not able to verify whether any of the returnees had been detained. However, the source stated that if a person had a high political profile, one could not rule out the possibility that he could face difficulties with the authorities. Information from some other sources about the deportation of Sudanese nationals from Jordan and Israel also indicated that those returnees who were held in prolonged detention may have been detained because of their political profile. Some sources highlighted that those returning from Israel were more at risk of being subjected to thorough questioning and/or arrested upon return than those returned from other countries [...]

6.2 Sudan: 'Sur place' activity in the UK (August 2016)

General observation

1. For ease of reference and transparency it is recommended that the footnotes contain the relevant page number(s) and/or section headings, where applicable. For example, in the below case the information is taken from Table 12 on page 76 of the source referenced in footnote 3:

4. Commission of Refugees / National Intelligence and Security Services [...]

4.1.2 A report from International Organisation for Migration (IOM), dated 2011, listed the responsibilities of the Ministry of Interior's Commission of Refugees (COR):

'Protecting, registering, counselling and providing material assistance and documents to foreign refugees at different administrative stages and all along their staying in the country. [;] ... Scrutinizing the requests of asylum in coordination with UNHCR [;] ... Management of refugees camps. [;] ... Undertaking or supporting awareness and information campaigns in coordination with other national and international institutions. [;] ... Following-up on the situation of Sudanese refugees abroad according to existing regulations. [;] ... Data collection, compilation of statistical reports studies on refugees.'³ [...]

3 IOM, Migration in Sudan: A Country Profile 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/D2ECC0D6226DF41DC1257842003973F1-Full_Report.pdf Date accessed: 19 June 2015

2. It should be noted that certain COI included in this CIG could not be reviewed as its content was either not available in the public domain or not available in English. For example the report by Landinfo, Sudan: Scope of political activity critical to the regime, of 11 November 2013. However, the footnote usefully noted that the English translation could be made available upon request. Perhaps in future these could be automatically shared with the IAGCI reviewer?

3. The 'Back to contents' internal hyperlink is not active throughout the report, making it not very user friendly to scroll up and down to other relevant sections.

Case law

1. It is recommended that not only the promulgation date but also the hearing date of country guidance (CG) determinations be included in the CIG. This would allow decision-makers and COI researchers alike to target their case-specific research and research requests post-hearing for COI that was not considered in the case.

For example, the most recent CG case on Sudan, [IM and AI \(Risks - membership of Beja Tribe, Beja Congress and JEM : Sudan\) \(CG\) \[2016\] UKUT 188 \(IAC\) \(14 April 2016\)](#) was promulgated on 14th April 2016, but the actual hearing took place on 4th November 2015, meaning that updated COI should be sought from the earlier date.

2. Moreover, it is recommended that relevant additional caselaw from the European Court of Human Rights be included. For example in the case of 'sur place' activity, the court in [ECtHR - A.A. v. Switzerland, Application No. 58802/12, 7 January 2014](#) found that:

[...] I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION [...]

B. Merits [...]

2. The Court's assessment [...]

40. With regard to the situation of political opponents of the Sudanese government, the Court nevertheless holds that the situation is very precarious. From the Country reports and the relevant case law above (see paragraphs 20-30), it is evident that suspected members of the SPLM-North, members of other opposition parties, civil society leaders and journalists are frequently harassed, arrested, beaten, tortured and prosecuted by the Sudanese authorities. Because of the ongoing war in different states, the SPLM-North has been banned by the Sudanese government and accordingly many people were detained because of their real or perceived links with that organisation. Furthermore, not only leaders of political organisations or other high-profile people are at risk of being detained, ill-treated and tortured in Sudan, but anyone who opposes or is only suspected of opposing the current regime. Moreover, it has been acknowledged that the Sudanese government monitors activities of political opponents abroad.

41. In the applicant's case, the Court notes that he has been a member of the SLM-Unity in Switzerland for several years. The Government however disputed the genuineness of his activities. In this regard, the Court acknowledges that it is generally very difficult to assess in cases regarding sur place activities whether a person is genuinely interested in the political cause or has only become involved in it in order to create post-flight grounds. In similar cases, the Court has therefore taken into account factors such as whether the

applicant was a political activist prior to fleeing his home country, and whether he played an active role in making his asylum case known to the public in the respondent State (see *S.F. and Others v. Sweden*, no. 52077/10, §§ 66-67, 15 May 2012, and *N. v. Finland*, no. 38885/02, § 165, 26 July 2005). In the present case, the Court however also has regard to the fact that the applicant joined the SLM-Unity in Switzerland several years before he launched his second asylum request, at a time when it still might not have been foreseeable for him to apply for asylum in Switzerland a second time. In view of the importance which the Court attaches to Article 3 of the Convention as set out above (see paragraph 38), and the irreversible nature of the damage which results if the risk of torture or ill-treatment materialises, the Court therefore prefers to assess the applicant's claim on the grounds of the political activities he effectively carried out. [...]

43. However, as set out above (see paragraph 40), not only leaders and high-profile people, but also those merely suspected of supporting opposition movements are at risk of treatment contrary to Article 3 of the Convention in Sudan. In the case of politically involved Sudanese nationals abroad, in particular those who had been seen to be affiliated with the SLM at the international meetings in Geneva, it has furthermore been established that they had been registered by the Sudanese authorities (see paragraph 30 above). In view of the applicant's participation in the international human right meetings, where representatives of the Sudanese government were present and where usually only a few citizens of one country participate so that they are relatively easily identifiable, as well the applicant's argument with the current Sudanese president's brother, the Court cannot therefore rule out that he, as an individual, attracted the Sudanese government's attention. Having also participated in some of those meetings on behalf of the SLM-Unity Switzerland, the Court believes that the applicant might, at least, be suspected of being affiliated with an opposition movement by the Sudanese government. It therefore finds that there are substantial grounds for believing that he might be known to the Sudanese government and would be at risk of being detained, interrogated and tortured as soon as he arrived at the airport in Sudan. Moreover, he would not have the opportunity to relocate. Accordingly, the Court finds that the implementation of the deportation order against the applicant would give rise to a violation of Article 3 of the Convention.

4.1 The National Intelligence and Security Services and affiliates

Information included in paragraph 4.1.5 cites the 2014 annual human rights report by the U.S. Department of State as follows:

4.1.5 The US State Department's 2014 Human Rights Report for Sudan reported:

'Although the government in 2011 named a special prosecutor from the Ministry of Justice to monitor NISS detentions, the independent expert remained concerned about weak judicial oversight of NISS arrests and detention. In numerous press statements, the [UN] independent expert expressed concern over the NISS' failure to adhere to human rights principles, including respect for the rule of law in Khartoum, Darfur, and the Two Areas.'

Though citing the same information, the more recent 2015 report should be included as the referenced source in footnote 7 as follows: U.S. Department of State, [Country Reports on Human Rights Practices 2015: Sudan](#), 13 April 2016, Section 1d.

4.2 Treatment of political opponents

Information included in this section is mainly taken from two annual reports covering 2014 instead of 2015 despite such reports being available at the time of publication. It therefore fails to take into account important developments and increasing restrictions of political space pre- and post-national elections that took place in April 2015.

(i) Paragraph 4.2.1 contains information from the Amnesty International report covering 2014/2015. It should have included that available from the more recent 2015/2016 annual report as follows:

➤ Amnesty International, [Report 2015/16: The State of the world's human rights: Sudan](#), 23 February 2016

[...] Sudan [...]

The authorities repressed the media, civil society organizations and opposition political parties, severely curtailing freedoms of expression, association and assembly [...]

Background [...]

In April, presidential and parliamentary elections took place. President Omar alBashir was re-elected for five years amid reports of low voter turnout, fraud and vote rigging. The main political opposition parties boycotted the elections. In the run-up to April's presidential election, the government restricted freedoms of expression, association and peaceful assembly and arrested dozens of political opponents[...]

Freedom of Assembly

The police and NISS agents repeatedly repressed freedom of assembly before and during the elections held from 13-17 April. Opposition political parties were repeatedly prevented from organizing public events during the pre-election campaign period from 24 February to 10 April [...]

Arbitrary arrests, torture and other ill-treatment

The NISS carried out arbitrary arrests and detentions, a number of which were politically motivated. Some detainees were released without charge. None appear to have received compensation and no security officers appeared to have been held to account. Farouk Abu Issa, leader of the opposition alliance National Consensus Forces (NCF), Dr Amin Maki Madani, head of the Alliance of Sudanese Civil Society Organizations, and Farah Al-Aggar, former senior member of the NCP in Blue Nile state, were released on 9 April, after spending 124 days in detention. They had been arrested in December 2014.³ They were arrested after signing a document calling for democratic transformation, dismantling of the de facto one-party state and an end to conflict in Sudan. Both Dr Amin Maki Madani and Farouk Abu Issa had been charged with capital offences under the 1991 Penal Code including "undermining the constitutional system". In total, at least 30 political activists were arrested across the country during the election period. In North Darfur, students at Al Fasher University organized peaceful protests on 14 April calling for a boycott of the presidential elections and a change of government. The police and NISS arrested 20 students and charged them with various offences under the Criminal Act, including establishing a "criminal and terrorist organization", rioting and causing a public nuisance. They were subjected to torture and other ill-treatment while in detention. They were all released pending trial. On 6 July, a court in Khartoum tried and convicted three members of the opposition SCP including its political secretary, Mastour Ahmed Mohamed. They were convicted of disturbing the public peace and each subjected to 20 lashes [...]

(ii) Similarly, paragraphs 4.2.2 – 4.2.4 contain information from the U.S. Department of State's annual report covering 2014. This should have included the most current annual report covering events in 2015:

➤ U.S. Department of State, [Country Reports on Human Rights Practices for 2015: Sudan](#), 13 April 2016

[...] c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The 2005 Interim National Constitution prohibits torture and cruel, inhuman, and degrading treatment, but security forces, government-aligned groups, rebel groups, and ethnic factions continued to torture, beat, and harass suspected political opponents, rebel supporters, and others. [...]

Government security forces beat and tortured persons in detention, including members of the political opposition, civil society and religious activists, and journalists, according to civil society activists in

Khartoum, former detainees, and NGOs. Subsequently, the government released many of these persons without charge. It did not investigate cases of torture or excessive use of force by security agents.[...]

d. Arbitrary Arrest or Detention [...]

The authorities, especially NISS, arbitrarily detained political opponents and those believed to sympathize with the opposition [...]

Role of the police and security apparatus [...]

Security forces and police harassed suspected government opponents.

Arrest Procedures and Treatment of Detainees [...]

The government often targeted political opponents and suspected rebel supporters [...]

NISS officials frequently denied holding individuals in their custody or refused to confirm their place of detention. In lieu of formal detention, NISS increasingly called individuals to report to NISS offices for long hours on a daily basis without a stated purpose. Many human rights observers considered this a tactic to harass, intimidate, and disrupt the lives of opposition members and activists, prevent the carrying out of “opposition” activities, and prevent the recording of formal detentions.[...]

e. Denial of Fair Public Trial [...]

Political Prisoners and Detainees

The government continued to hold political prisoners and detainees, including protesters. Due to lack of access, the actual numbers of political prisoners and detainees could not be confirmed. Human rights monitors reported political prisoners as being in the hundreds; the government claimed it did not have political prisoners. [...]

Security forces detained political opponents incommunicado, without charge, and tortured them. Some political detainees were held in isolation cells in regular prisons, and many were held without access to family or medical treatment. Human rights organizations asserted NISS ran “ghost houses,” where it detained opposition and human rights figures without acknowledging they were being held. Such detentions were prolonged at times.

The government continued to arrest or temporarily detain opposition members, especially those belonging to or affiliated with of the Sudan Congress Party, Sudanese Communist Party, and affiliates of the SPLM-N or other opposition groups. Detentions were especially frequent in the period before national elections in April. There were some temporary detentions after elections as well despite the government’s assurances that it would create an environment conducive to national dialogue. [...]

Section 3. Freedom to Participate in the Political Process [...]

The government failed to create a free, fair, and conducive elections environment. Restrictions on political rights and freedoms, lack of a credible national dialogue, and the continuation of armed conflict on the country’s peripheries contributed to a very low voter turnout. Observers noted numerous problems with the pre-election environment. The legal framework did not protect basic freedoms of assembly, speech, and press. Security forces restricted the actions of opposition parties and arrested opposition members and supporters. In addition there were reported acts of violence during the election period (see section 1.c.).

The main opposition parties, Umma National Party, National Consensus Forces, Sudanese Congress Party, and the Popular Congress Party, boycotted the election itself; only the ruling NCP party and National Unity parties participated. [...]

Authorities monitored and impeded political party meetings and activities, restricted political party demonstrations, used excessive force to break them up, and arrested opposition party members. [...]

Further illustrative sources available at the time of publication of the CIG detailing the current restrictive political space and threats opposition members face have been listed here, but are by no means exhaustive of that available in the public domain:

- UN Human Rights Council (formerly UN Commission on Human Rights), [Report of the Independent Expert on the situation of human rights in the Sudan \[A/HRC/33/65\]](#), 28 July 2016
- UK Foreign and Commonwealth Office, [Human Rights and Democracy Report 2015 - Human Rights Priority Country update report: January to June 2016 - Sudan](#), 21 July 2016
- African Centre for Justice and Peace Studies; African Soul, American Heart; et al., [Open Letter concerning excessive use of force by Sudanese authorities \[AFR 54/4309/2016\]](#), 3 May 2016
- Human Rights Watch, [‘Good Girls Don’t Protest’: Repression and Abuse of Women Human Rights Defenders, Activists, and Protesters in Sudan](#), March 2016
- Amnesty International, [Sudan: Dire Human Rights Situation Continues; Amnesty International Submission to the UN Universal Periodic Review, May 2016 \[AFR 54/3532/2016\]](#), 26 February 2016
- African Centre for Justice and Peace Studies (ACJPS), International Federation for Human Rights (FIDH), and International Refugee Rights Initiative (IRRI), [Submission to the Universal Periodic Review of Sudan 2016](#), September 2015
- Human Rights Watch, [Wave of Opposition Arrests](#), 28 August 2015

Additional COI available post-publication include as follows:

- Amnesty International, [Sudan must end violations of international human rights and humanitarian law and promptly investigate all allegations of torture, ill-treatment, arbitrary detention and excessive use of force; Human Rights Council adopts Universal Periodic Review outcome on Sudan \[AFR 54/4875/2016\]](#), 22 September 2016
- Act for Sudan; Alkarama Foundation; KACE - Al Khatim Adlan Centre for Enlightenment and Human Development; African Centre for Justice and Peace Studies; AI - Amnesty International; Cairo Institute for Human Rights Studies; et al., [Sudan: Letter from 36 NGOs and individuals regarding the human rights situation in advance of the 33rd session of the UN Human Rights Council \[AFR 54/4795/2016\]](#), 8 September 2016

4.3 Procedures for exiting Sudan legally

1. It is recommended that information presented in this sub-section be ordered chronologically to increase user-friendliness.

2. Paragraph 4.3.1 contains information from the U.S. Department of State’s annual report covering 2014. This should have included the most current annual report covering events in 2015:

- U.S. Department of State, [Country Reports on Human Rights Practices for 2015: Sudan](#), 13 April 2016
[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons [...]

The government requires citizens to obtain an exit visa if they wish to depart the country. Issuance was usually pro forma, but the government continued to use the visa requirement to restrict some citizens’ travel, especially persons of political or security interest. To obtain an exit visa, children must receive the permission of both parents.

In October and November, authorities prevented leading opposition party members from travelling abroad to participate in a meeting of opposition parties and rebel groups. Authorities confiscated several passports. In one case authorities confiscated the foreign passport of a dual national living abroad when he attempted

to depart the country in October and, as of November, had not returned the passport or explained the reason for its confiscation. The individual believed he may have been targeted because of his former affiliation with opposition groups.

On November 16, local media reported authorities temporarily detained and confiscated the passports of Sudanese National Alliance Party Chair Kamal Ismail and Deputy Chair of the National Umma Party Mariam al-Sadiq al-Mahadi upon their return from talks in Paris with members of the opposition who belonged to the “Sudan Call,” a grouping of political and armed opposition forces and civil society organizations. Human rights observers and opposition members considered the temporary detentions and confiscations of passports contrary to the government’s stated policy of creating a conducive environment for the national dialogue. Several opposition leaders invited to the AU and other international peace talks to end the country’s internal conflicts were denied exit visas and/or had their passports confiscated. Some leaders were able to travel but reported having their passports confiscated upon return. [...]

5. The Sudanese diaspora [sic] in the UK

The title of this section has ‘diaspora’ misspelled. The same goes for the title in the ‘Index’ on page 3.

6.1 Sudanese diaspora organisations

1. Paragraph 6.1.2 includes the wrong reference. The footnote states that the information included is taken from a 2006 IOM mapping exercise. Instead it cites IOM, [Migration in Sudan: A Country Profile 2011](#).

2. Relying on a letter by Waging Peace and its associates, paragraphs 6.1.3 and 6.1.4 list a number of UK based groups and activists:

6.1.3 An open letter from the NGO Waging Peace to Ban Ki-Moon, dated 22 December 2014, listed numerous UK based groups linked to Sudan including the Justice and Equality Movement (JEM); Darfur Victims Organisation for Rehabilitation and Relief (DVORR); National Sudanese Women Alliance in Diaspora, Beja Congress UK; Darfur Union UK & Ireland; SUDO; Voice of Darfur Women; Nuba Now; EASE Women Group; Beja Congress Corrective; Sudan Organisation for Development and DAAM (Network for Coordinating Sudan Pro-Democracy Action Abroad); other groups Waging Peace had been in contact with included the Massaieit Community in the UK and Ireland; Nuba Mountains Solidarity Aboard (NMSA) UK and Ireland; Zaghawa Community Association (Beri) and Tunjur Community in the UK (Birmingham).

6.1.4 The Waging Peace letter, dated 22 December 2014, also listed numerous UK-based activists, including Gaafer Ali, Mohammed Bahari, Abdalla Ahmed; Sam Godolphin; Ahmed Elzobier; Ahmed Gamar; Hamza Yousif; Alhadi Altrayih; Mohammed Abaker; Ali Rahman; Rasha Ibrahim; Hashim Othman Mustafa Ibrahim. It is not known from the letter if these individuals are of Sudanese origin, but it is noted some are from Sudan.

The actual letter lists in total 45+ organisations and individual activists. It is not clear on what criteria the organisations and individuals were selected for inclusion in those two paragraphs. It is recommended that either all are listed or alternatively a reference is provided to the existence of such a list. The last sentence in paragraph 6.1.4 further notes that some individuals are from Sudan and cites the tweet from one particular Sudanese activist. Again it is not clear whether all activists mentioned in the Waging Peace letter have been searched for such activities but no further information was provided on whether that particular activist is already known to the Home Office.

3. Information included in paragraph 6.1.7 is outdated [emphasis added]:

6.1.7 Outside the Sudanese diaspora, other UK-based activist groups known to be interested in Sudanese refugee and asylum issues include Article 1, HART, the Aegis Trust and Waging Peace. In Westminster the All Party Parliamentary Group (APPG) for Sudan and South Sudan, **chaired by William Bain MP, aims to ‘...[p]romote in Parliament and in Her Majesty’s Government the cause of peace, justice and development for all the peoples of Sudan.’**

The latest information available on the website of www.parliament.uk states that as of 12 October 2016 the purpose of the APPG for Sudan and South Sudan is “To influence the UK government’s policy and practice by promoting the cause of peace, human rights, justice and development for all the people of Sudan and South Sudan across the political spectrum in Westminster and Whitehall” and is chaired by Mark Durkan of the Social Democratic & Labour Party.³⁴

6.2 The Justice and Equality Movement (JEM) and other groups in the UK

1. At paragraph 6.2.4 the CIG states that [emphasis added]:

6.2.4 An Agence France Presse (AFP) report dated 26 January 2012 noted that the current leader of JEM, Jibril Ibrahim (the brother of former leader, the late Khalil Ibrahim), pursued a teaching career in London while serving as JEM’s foreign affairs chief before he took control of the organisation. The source further noted that ‘[h]is lack of military experience was a major source of objections within the movement to his leadership.’ An open letter from Waging Peace, dated 22 December 2014, included **Gebreil M Fediel (aka Jibril Ibrahim), chairperson of the JEM**, as a signatory.

Nowhere in the original source does it mention that Gebreil M Fediel is the same person as Jibril Ibrahim, the chairperson of JEM. A Google search results indicate that sources refer to Gebreil M Fediel as the “Vice-President of the SRF”³⁵ [Sudan Revolutionary Front] and “A leading Sudanese exile based in the UK, Dr Gebreil Fediel from Darfur”³⁶, but no information has been found supporting the assertion made that he is the same person as ‘Jibril Ibrahim’.

2. In paragraph 6.2.8 the CIG makes an assertion, which is not substantiated by the referenced source. It states [emphasis added]:

³⁴ UK Parliament Website, [Register Of All-Party Parliamentary Groups \[as at 12 October 2016\], Sudan and South Sudan](#), 12 October 2016

³⁵ European United Left/Nordic Green Left (GUE/NGL), European Parliamentary Group, [Press conference: Presentation of a Peace Plan for Sudan](#), 16 July 2014

³⁶ The Guardian, [UK spent millions training security forces from oppressive regimes](#), 25 September 2012

6.2.8 JEM posted a YouTube video of a 2014 demonstration outside Downing Street. The demonstration was provoked by reports of multiple rape and acts of sexual violence by Sudanese security forces in Tabit, Darfur. **JEM members made up over half of the people in attendance.**

The highlighted sentence is referenced to a You Tube video of the demonstration. However, nowhere is it mentioned that half of the demonstrators were made up of JEM members.

6.3 Letters from diaspora groups to Sudanese asylum seekers

An unsubstantiated assertion is being made in paragraph 6.3.4 in relation to letters the Home Office received in 2011 and 2012 by the reputable organisation Waging Peace. The paragraph states [emphasis added]:

6.3.4 It is not possible to verify the accuracy or reliability of the information contained in these letters. The letters supplied by Waging Peace are dated 2011 and 2012, **and may no longer be current or accurate.**

No background information is provided to indicate why these letters should no longer be “current or accurate”. If the author of this CIG was concerned about the accuracy of the information given they are now 4-5 years old then this could have been investigated or an update sought by contacting Waging Peace directly, who are based in London, UK.

7. Surveillance by Sudanese government

The following additional COI is recommended for inclusion as it demonstrates the wide reach of surveillance conducted by the NSS outside of Sudan:

- Freedom House, [Freedom on the Net 2014 - Sudan](#), 4 December 2014
[...] Sudanese dissidents living abroad have also been targeted by the NISS, indicating a level of surveillance that may be able to cross international borders or entail cooperation with other governments. The prominent Sudanese blogger, Amir Ahmed Nasr, was one such expatriate who was confronted by an apparent Sudanese security agent while living in Kuala Lumpur, Malaysia. Also known for his autobiography about his blogging experience on difficult questions about Islam, identity, and Middle Eastern politics—which is banned in Malaysia—Nasr was told by the security agent that he was “being watched back in Khartoum by the NISS, and that [he] should stop [his] articles and speeches against the NCP, or else there will be consequences.”[78] The blogger subsequently left Malaysia to seek political asylum in Canada [...]
- Landinfo, [Temanotat Sudan: Handlingsrom for regimekritisk politisk aktivisme](#), 11 November 2013
[...] Summary [...]
Political activity inside Sudan is not the sole focus of the Sudanese regime, which also tries to limit such

activity among Sudanese abroad through monitoring exile communities. Although there is no concrete evidence to support that forced returnees to Sudan face problems with security forces, Landinfo can see no reason why Sudanese authorities should differentiate between political activities outside and inside Sudan, provided their aim is to change the political situation in Sudan in ways threatening president Umar alBashir's regime [...]

- Amnesty International, [Repression still stalks Sudanese activists who sought safety in Egypt](#), 17 January 2013
Faced with persecution and an increasingly dangerous climate in Sudan in recent years, a number of Sudanese activists have fled to the Egyptian capital Cairo, hoping to continue their work in safety from abroad. But harassment and attacks have followed them across the border, and Amnesty International has documented a series of cases of Sudanese activists living in Cairo who have faced death threats, surveillance by unidentified men, break-ins and physical assaults – including a rape and an attempted stabbing. A group of activists – who spoke with the organization on the condition of anonymity – claimed that Sudanese Embassy and National Security Services (NSS) agents in Cairo are behind such activities, aimed at intimidating them [...]

The following COI is also suggested for inclusion as it highlights the equipment and capabilities the Sudanese government has purchased to monitor internet communication:

- Freedom House, [Freedom on the Net 2015 - Sudan](#), 2 November 2015
[...] Surveillance, Privacy, and Anonymity
Unchecked surveillance of ICTs is a grave concern in Sudan. The Sudanese government actively monitors internet communications on social media platforms, particularly targeting online activists and journalists during political protests, and the NISS regularly intercepts private email messages, enabled by sophisticated surveillance technologies. According to Citizen Lab research from June 2013, Sudan possesses high-tech surveillance equipment from the U.S.-based Blue Coat Systems, a technology company that manufactures monitoring and filtering devices. The surveillance system was initially traced to three networks inside Sudan, including on the networks of the private telecom provider Canar. In addition, Citizen Lab also located sophisticated computer spyware technology known as Remote Control System (RCS) by the Italian company Hacking Team in Sudan in early 2014. Advertised by Hacking Team as “offensive technology” sold exclusively to law enforcement and intelligence agencies around the world, RCS spyware has the ability to steal files and passwords and intercept Skype calls and chats. Internal emails leaked by hackers in July 2015 confirmed that Sudan's NISS had purchased Hacking Team's RCS spyware in 2012, though another leaked email from January 2014 revealed that training of intelligence agents was stymied by an overwhelming lack of computer literacy and English-language skills. Other leaked emails revealed that the company had discontinued business with Sudan in November 2014. [...]
- Reporters without Borders, [Enemies of the Internet 2014: Sudan](#), Undated
Sudan: Scoring high in censorship
The National Intelligence and Security Service (NISS), the Cyber-Jihadist Unit and the National Telecommunication Corporation (NTC)
The Omar Al-Bashir regime has held Sudan in an iron grip for the past 25 years. As new technologies develop and internet penetration increases (17 per cent of the population was connected in 2012), methods of control and repression have also been evolving.
The Cyber-Jihadist Unit
In 2011, at the height of the Arab Spring, Sudan's ruling National Congress Party, fearing the spread of political challenges from abroad via social media, decided to upgrade its internet surveillance capability by forming a “Cyber Jihadist Unit” assigned to conduct “online defence operations” to “crush” internet dissidents.

Two hundred agents spread throughout the country, working in shifts to provide 24 hour-a-day capability, especially during peak internet usage hours – nights and weekends. The unit was strengthened in 2012, when the Sudanese blogosphere was experiencing an unprecedented boom, growing from 70 to 300 blogs over a period of 18 months.

The security services recruit agents from public higher education institutions including the National Ribat University. New recruits receive online piracy training in Malaysia and India. They are trained to monitor internet content, hack online accounts (email, Facebook, Twitter), block or take down sites and identify targets to put out of action.

However, the Cyber-Jihadist Unit on its own would be insignificant without the protection afforded by its parent organization, the NISS, the main agency for repression and censorship in Sudan.

The National Intelligence and Security Services

The Cyber-Jihadist Unit works with complete freedom of action thanks to the National Security Act of 2010, under which the NISS operates. This law reinforces the impunity with which NISS agents operate, allowing them to arrest any journalist and censor any publication on “national security” grounds. The NISS can keep an individual in detention for up to 45 days without charges, with the authorization renewable when the initial period expires.

Before the cyber unit was created, a series of laws had already authorized control and repression of online information. In 2007, adoption of the IT Crime Act further weakened freedom of expression on the web and imposed penalties of up to two years in prison and heavy fines. People who create web sites critical of the government risk these punishments. In 2008, a law requiring mobile phone owners to register their SIM cards allowed intelligence agencies to more easily trace journalists and activists through their phones.

National Telecommunication Corporation

The NISS and Cyber-Jihadist Unit are reinforced by the NTC. Founded in 1996, the NTC is a government agency in charge of regulating information and communication technology. The NTC formed an Internet Service Control Unit to decide what content should be accessible on the internet. If the government determines some information to be too sensitive, it blocks the host platform. This has occurred repeatedly since 2008 to the news site and forum, Sudanese Online, which posted information on the war in Darfur.

In response to the anti-government demonstrations that broke out nationwide in 2013, the NTC frequently blocked the sites for Sudanese Online, Al-Rakaba, and Hurriyat as well YouTube and other sites.

The agency went so far as to cut off the internet entirely for the entire country. In June-July 2013, the internet transmission system was slowed to the point that the network was completely inaccessible for several hours. On 25 September 2013, a total internet blackout lasted 24 hours. The objective was to hamper the organizing of demonstrations on social networks. As information flow came to a halt, the extent of official repression could not be known for several hours. The NTC denied official responsibility for the blackout, accusing demonstrators. But they had nothing to gain by cutting off their means of communication, and lacked the capacity to do so.

Faced with the expansion of online censorship, a growing number of opposition web sites install their servers abroad. Sudanese Online, for example, is hosted in the United States.

NTC and NISS agents’ technological shortcomings and limited English-language skills stand as the last barrier against total government control of the internet. Content in English and its authors are subjected less frequently to officially sponsored attacks. The emphasis is on Arabic content, reflecting concerns over domestic developments [...]

7.2 Surveillance activities in Norway

In July 2015 the UK asked various European countries whether they had any evidence that the Sudanese government is monitoring individuals and organisations from the Sudanese diaspora. In paragraph 7.2.3 the response from the Norwegians is included:

7.2.3 In July 2015, the UK asked various countries: ‘Do you have any evidence the Sudanese government has the capability to monitor individuals and organisations from the Sudanese diaspora in your country?’ Norway’s reply noted:

‘There has been one case of refugee [e]spionage in Norway, where a Sudanese man with refugee status in Norway in 2012 was arrested for collecting and handing over information on other refugees to a representative at the Sudanese Embassy in Oslo. The man was convicted in 2013, and the case was appealed to the Supreme Court, which in September 2014 sentenced the man to one year and three months in prison. The representative at the Embassy involved was asked to leave Norway, when the case evolved in 2012. ... We are not aware of other cases.’

Unfortunately, no additional information is included on how many other countries responded and what their response was. Given the uniqueness of access to such information it is recommended that such information be made public.

8.1 ‘Persons of interest’ to the Sudanese authorities

There remains a ‘track change’ icon that needs to be accepted in paragraph 8.1.3.

Sub-sections missing and additional sources

1. As recommended further above for the CIG ‘Sudan: Failed asylum seekers’, a discreet section on ‘prison conditions and treatment in detention’ should be included. The CIG does highlight throughout that returnees have been arrested and imprisoned with some individuals providing testimonies of ill-treatment. Suggested sources are listed [further above](#).

2. In addition, similar to the observation made for the CIG ‘Sudan: Failed asylum seekers’, it is interesting to note that the joint fact-finding mission report by the Danish Immigration Service and the UK Home Office, published in the August 2016, was not included in this CIG. Relevant sections of the report would have included:

- Danish Immigration Service and UK Home Office, [Sudan; Situation of Persons from Darfur, Southern Kordofan and Blue Nile in Khartoum; Joint report of the Danish Immigration Service and UK Home Office fact finding missions to Khartoum, Kampala and Nairobi Conducted February – March 2016](#), August 2016
 - 2.1 Security and immigration checks at the airport
 - 2.3 Return without an exit stamp
 - 2.4 Return after a long-term stay abroad
 - 2.5 Return with emergency travel documents

- 2.6 Impact of political profile
- 2.7 Impact of ethnic affiliation
- 2.8 Impact of country of departure

7. Review of Responses to COI Requests: specific comments [presented in chronological order]

7.1 Security situation and treatment of Nuer ethnic group (04/14-162), 1 May 2014

Security situation in South Sudan and treatment of the Nuer ethnic group; Assessment of the security and humanitarian situation

This COI Request was not reviewed as it was outside of the reviewers mandate as it relates to South Sudan, which gained independence from Sudan on 9th July 2011. This was communicated to the Chair of the IAGCI on 19th October 2016 and suggested that an alternative COI Request be sent instead.

7.2 Coptic Christians (05/14-116), 22 May 2014

Treatment of Coptic Christians

It is considered that this COI Request is factually accurate and representative of the COI available at the time of publication (22 May 2014). All the sources in the COI Request are presented under one topic, ‘Treatment of Coptic Christians’. It is considered that it would be more user-friendly to have presented the COI to clearly differentiate the treatment between born Coptic Christians and those that convert and between state and societal treatment. That is, on the following sub-topics:

- State treatment of Coptic Christians;
- Societal treatment of Coptic Christians;
- Legal provisions relating to apostasy and implementation and other State treatment of Coptic Christian converts,
- Societal treatment of Coptic Christian converts.

It is considered that the COI Request should have made clear that the excerpt from the Al Jazeera ‘article’ is actually blog.

7.3 Justice and Equality Movement (07/14-170), 30 July 2014

The typical size of JEM cells operational in Sudan; The cost of membership of JEM for members in Sudan?; Are JEM UK now issuing ID cards to members, and if so when did they begin to do so?

The COI Request indicated that the CPIT was unable to find information in the public domain on

the typical size of JEM cells operational in Sudan or the cost of membership of JEM for members in Sudan. Whilst no such specific information appears to be available, it may have been useful to indicate the number of JEM fighters in Sudan, which can be found for example here:

- Small Arms Survey, [Justice and Equality Movement \(JEM\) \(AKA JEM-Jibril\)](#), August 2013 and [...] In mid-2010, before a government offensive that led to heavy casualties on both sides, JEM was estimated to have more than 5,000 men armed with mounted anti-aircraft guns, rocket-propelled grenades, heavy machine guns, AK-47s, several hundred vehicles (possibly as many as 1,000, according to one informed source), and at least two tanks, seized from the government. To this day, and despite splits in the movement, JEM remains the strongest and most cohesive military force in Darfur. [...]
- Al Jazeera, [Who are Sudan's Jem rebels?](#) 5 May 2010. [...] The Justice and Equality Movement (Jem) is the most powerful anti-government faction involved in the conflict in Sudan's western Darfur region.

Jem leaders claim they have as many as 35,000 well-armed fighters in the region that borders Chad. [...]

On the question of whether JEM UK are issuing ID cards to members and if so when did they begin to do so, CPIT provides information it received by email from the NGO Waging Peace. The COI Request indicates that they stated that in 2012, "JEM identity cards were introduced", but it is not clear from this response whether they are answering with respect to when JEM UK ID cards were introduced. There is information available in the public domain at the time of the publication of the COI Request (30 July 2014) that the North Africa Office of JEM was issuing ID cards as early as 2009:

- Translating Fazzan (and Kufra) (blog), [Evidence of Presence of Chadian Mercenaries](#), 22 February 2012

It is interesting to note that for this particular COI response, an external organisation was consulted for additional information. It would be useful to know on what basis this organisation was approached, whether other experts were contacted and whether it is a general practice to consult external country experts/organisations when no or limited information is found in the public domain.

7.4 Languages – Zaghawa tribe, non-Arab Darfuri (08/14-086), 29 August 2014

The specific question(s) raised with the COI researcher has not been included in this request. It is therefore not possible to assess precisely whether all the elements of the questions have been addressed.

The COI Request provides links to two reports by Dr Suleiman Norein Osman, but unfortunately neither are active, nor are the links to his CV or the King Saud University faculty page.

An active link was not found for the following report:

- Dr Suleiman Norein Osman, *Phonology of Zaghawa Language in Sudan*, 2004

The other report is currently available at:

- Dr Suleiman Norein Osman, [Proverbs and Idiomatic Phrases in Zaghawa Language](#), 2006

His CV is available at the following link: <http://faculty.mu.edu.sa/download.php?fid=9118>

Dr Suleiman Norein Osman's available article 'Proverbs and Idiomatic Phrases in Zaghawa Language' provides useful information on the four main branches of the Beri-a (Zaghawa) language according to clan classification and where each is spoken along with a number of proverbs and idioms. Depending on the particular reason for the COI Request (no questions are posed, the topic is broadly 'Zaghawa tribal language'), useful sources on the Zaghawa language to replace Suleiman Norein Osman's article 'Phonology of Zaghawa Language in Sudan' include:

- Ethnologue, [Zaghawa](#), undated [accessed 19 October 2016]
- Open Language Archives, [OLAC resources in and about the Zaghawa language](#), undated [accessed 19 October 2016]

7.5 Massalit (04/15-041), 14 April 2015

Who is the current leader of the Massalit tribe in Sudan? (The information in COIS is undated but circa 06/07 and my applicant has advised of a different name); What other tribes are the Massalit permitted to marry?; Are there any tribes that the Massalit don't marry?; Is Massalit a written language?; What style (material) of house do the Massalit live in?; Who is responsible for building the house? (men, women or both); When did Wali Haider Galikoma Ateem become governor (wali) of West Darfur and who preceded him in that role?; What tribe does Wali Haider Galikoma Ateem belong to?; Is there a camp in El Geneina named/located in Fardows or Ferdous?

In general the COI Request does provide accurate COI, however for several of the specific queries the CPIT was unable to find relevant information that is readily available in the public domain at the time of publication of the COI Request (14 April 2015):

1. *Who is the current leader of the Massalit tribe in Sudan? (The information in COIS is undated but circa 06/07 and my applicant has advised of a different name).*

CPIT's response was that no information on the current leader was found. However, it may have been useful to provide information on Khamis Abaker, the 'historic leader' of the Massalit and the recent lack of Masalit leadership. See for example:

- Small Arms Survey, [Sudan Liberation Army-Khamis Abaker \(SLA-KA\)](#), July 2010
Khamis Abaker enjoyed a reputation as a strong village defence leader in the Masalit wars of the 1990s. Arrested in 1999 and sentenced to 20 years' imprisonment for armed rebellion, Abaker escaped in 2003, joined the insurgency in Darfur and was chosen as vice-chairman of the SLA, representing the Masalit

tribe. Although he retains some influence as the ‘historic leader’ of the Masalit, his long absence from Darfur, based mostly in Eritrea, and the ambiguous nature of his positioning among the rebel factions have damaged his reputation including among the Masalit.

Most Masalit were driven off their land in 2002–03, before the conflict in Darfur came to international attention, and by early 2004 most of the fighters loyal to Abaker had been pushed into Chad. In 2007, Abaker chaired a short-lived coalition, the United Front for Peace and Development, widely seen as an Eritrean creation at a time of rapprochement between Asmara and Khartoum. (The Masalit were the first Darfurians to join the Sudan People’s Liberation Army en masse, enrolling in the Eritrean-based New Sudan Brigade in the late 1990s, in hope of organizing a Masalit defence force to fight off Arab attacks.) Divided and displaced, the Masalit currently pose no military threat and lack leadership.

4. *Is Massalit a written language?*

The COI Request cites one source, which indicates that Massalit is “a tribal language with no systematic written form”. However there is some evidence to indicate that it may have a written form. See for example:

- Ethnologue, [Masalit](#), undated [accessed 19 October 2016]

[...] Writing

Latin script [Latn]. [...]

- Strategy Leader, [People Profile The Masalit People of Chad and Sudan](#), 14 July 2008

[...] Language:

The Masalit language is also called Masalit. This is a Nilo-Saharan language in the Maban group. The majority are also bilingual in Arabic. Few can read or write in French (applicable in Chad) or Arabic, the national language of their countries. In Chad there are three dialects of Masalit: Northern Masalit, Western Masalit, Southern Masalit.

Until recently the Masalit language has not been reduced to writing. A dictionary was published a few years ago [Edgar, John. *A Masalit grammar: with notes on other languages of Darfur and Wadai*. Berlin: D. Reimer, 1989. (Sprache und Oralitat in Afrika; 3)]. [...]

The Ethnologue reports that the majority of the Masalit use Arabic as second language; however, people in the central area and women know only limited Arabic. Another spelling of the name is Massalit. It is also sometimes called Kaana Masala or Jwisince. Literacy rates reported by the Ethnologue for Chad indicate literacy in Masalit language is below 1%, while literacy in Arabic is below 5%. [...]

5. *What style (material) of house do the Massalit live in?*

The COI response indicates that “Information about the type of houses the Massalit live in and who constructs them could not be found by CPIT”, however the following COI is available in the public domain documenting the type of houses the Massalit live in:

- Joshua Project³⁷, [Masalit in Sudan](#), undated [accessed 19 October 2016]

[...] Most of the Masalit live as nuclear families in village settlements. Their homes are made from forest products. The walls are made of grass mats, and the cone-shaped roofs are thatched with wild grasses. They are round in shape and their frames are held up by strong wooden posts and poles. The huts are situated

37 Caution should be exercised when relying on this source given that the organisation is ‘is a research initiative seeking to highlight the ethnic people groups of the world with the fewest followers of Christ’

closely together to form small compounds. The compounds are surrounded by fences made from millet stalks. Each village consists of several compounds. [...]

- Max Planck Institute for Social Anthropology Working Papers, [Working Paper No. 62: Property Regimes in the Context of War and Displacement: Chad, Croatia, and Azerbaijan in Comparison](#), 2003
[...] Rights to Land and Water
[...] It can be observed that the better allotments of land belong to the children of the first settlers and founders of a village; the land distributed to more recent settlers is mostly that which is further away. This was also the case for those refugees who came more recently to Chad from the Sudan and needed a place to stay.
Both the Masalit and Arabs live in houses made of branches and millet straw; the Arabs also use branches and plastic covers for their temporary houses. They all build their houses, which do not cost much, themselves. The land for building the house is usually given within the community, without discrimination of one group or the other. The Masalit tend to live in compact settlements, but on larger plots of land. [...]
- James Stuart Olson, [The Peoples of Africa: An Ethnohistorical Dictionary](#), 1996
[...] Most Masalit live as nuclear families, in villages composed of conical wood and thatch houses. [...]

6. *When did Wali Haider Galikoma Ateem become governor (wali) of West Darfur and who preceded him in that role?*

CPIT could not find such information, however:

- Radio Dabanga, [President Bashir appoints new state governors](#), 10 January 2012
[...] The SUNA news agency reported Haider Galo Koma Atim of the Sudan Liberation and Justice Movement was appointed to governor of West Darfur. [...]
Shertai Jaafar Abdel Hakum was the governor of West Darfur but has now been made a special adviser to President Bashir.
- 7. *Information about a camp in El Geneina located in Fardows or Ferdous could not be found by CPIT.*

Similarly, no such information was found, but it might have been useful to make clear that El Ferdous is a locality in East Darfur, see as for example mentioned in this source:

- Radio Dabanga, [People killed, beaten, robbed in Darfur](#), 29 December 2014
[...] During a festivity at the village of Fanga in El Ferdous locality, East Darfur, a gunman fired celebratory shots in the air. [...]

It is also considered that it would have been relevant to indicate that there are several IDP camps in El Geneina, West Darfur, as reported by the following source for example:

- Mediciens Sans Frontieres, [Geneina, A survey of internally displaced persons in El Geneina, western Darfur](#), July 2004
[...] A nutritional, mortality and general household status survey was conducted between 26 and 29 June 2004 among internally displaced persons (IDPs) living in twelve camps in or around the city of El Geneina, capital of West Darfur State, Sudan. [...]
The IDP population in each of these camps (Abu Zahr, Ardamata, Durti, Kirinding, Medinat el Hujjaj, al Mustaqbal, Riad, Sultan House, el Tadamon, al Thura, al Zahra, and Zalinegei University) was estimated through a combination of hand tally counts and area sampling. [...]

7.6 Conflict in South Kordofan/Blue Nile states (06/15-044), 11 June 2015

A COI response prepared on the current conflict in South Kordofan (post 2012)

The general information included, informing about the security situation in South Kordofan is relevant, balanced and accurate. However, it provides only a very narrow view on the current situation in South Kordofan at the time of writing, leaving out important information on the impact the conflict is having on the humanitarian situation and the degree of human rights violations being committed by all sides to the conflict. Also, only the last two paragraphs, 6 and 7, touch upon the specific situation for people from the Nuba mountains and the impact the conflict is having on them. It is not clear from the general question included at the top of the COI Request whether such information was requested in some other format. If so, then more specific COI on the particular targeting of the Nuba should have been included.

Generally, it is recommended that information presented be ordered chronologically to increase user-friendliness. In addition, for ease of reference and transparency it is recommended that the footnotes contain the relevant page number(s) and/or section headings, where applicable.

The hyperlink provided in footnote 1 to the U.S. Department of State annual report is not the one linking directly to the 2013 annual human rights report:

¹ US State Department, Country Reports on Human Rights Practices for 2013, Sudan, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>, accessed 11 June 2015

Instead it links to the ‘Secretary’s Preface’ for the ‘Country Reports on Human Rights Practices for 2015’. To ease access and user-friendliness it is recommended that the direct link to the report be provided as follows: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dliid=220164>

Additional information found in the original source, the U.S. Department of State annual report covering events during 2012, included in paragraph 1 should have been included which document the killing of civilians as follows:

- US Department of State, [Country Reports on Human Rights Practices for 2013: Sudan](#), 27 February 2014
[...] g. Use of Excessive Force and Other Abuses in Internal Conflicts [...] The Two Areas and Abyei [...] In Darfur and the Two Areas, government forces and government-aligned militias killed civilians, including by repeated aerial bombardment of civilian areas. Ground attacks often followed aerial bombardments. Rebel forces also killed civilians during attacks. Attacks resulted in civilian displacement [...]

Moreover, the request would have benefitted from information about the human rights abuses committed by all sides to the conflict, which was available in the original source as follows:

- US Department of State, [Country Reports on Human Rights Practices for 2013: Sudan](#), 27 February 2014
[...] g. Use of Excessive Force and Other Abuses in Internal Conflicts [...] The Two Areas [...] SAF air raids resulted in civilian deaths throughout Southern Kordofan and Blue Nile. On September 6, an

air raid on the Sombok Friday market killed at least 30 civilians and injured several others. An estimated 975 persons were killed during the year.

SPLM/N's Blue Nile Humanitarian Coordination Office reported on April 10, an air raid on the villages of Gerdan, Ura, Chali, and Mayak Babras in Blue Nile killed at least five civilians. Those killed were primarily women and children; three others were injured in the raids.

On June 14, the SPLM/N shelled Kadugli town, killing two civilians and one UNISFA peacekeeper, while wounding two UNISFA peacekeepers.

Abductions: On August 26, an unknown militia group abducted eight International Committee of the Red Cross (ICRC) staff members. On August 27, six of the members were released. On September 8, the two drivers were released, but the two ICRC trucks were not returned.

On March 24, the rebel group SLA/AW kidnapped 31 IDPs traveling in the Darfur region from Zalingei to Nyala to attend a conference of IDPs and refugees. SLA/AW released the IDPs unharmed on March 30.

In August 2012 unidentified militia members abducted two Jordanian UNAMID peacekeepers in Kabkabiya, North Darfur. On January 2, the militias released the two peacekeepers to the NISS, who transferred them to the UN. The government stated it continued to investigate, but by year's end the perpetrators remained at large.

International organizations were unable independently to verify reports of disappearances due to lack of access to the region.

Physical Abuse, Punishment, and Torture: All parties to the conflict in Darfur, the Two Areas, and Abyei were accused of perpetrating torture and other abuse. The government abused persons detained after armed conflict as well as IDPs suspected of having links to rebel groups. There were continuing reports that government security forces, progovernment and antigovernment militias, and other armed persons raped women and children. [...]

SAF and government-aligned forces reportedly burned and looted villages throughout Southern Kordofan and Blue Nile. [...]

In addition, the same source provided information on the humanitarian situation, i.e. the situation and treatment of IDPs, which would have been useful to include as well in a COI Request on the security situation, as follows:

- US Department of State, [Country Reports on Human Rights Practices for 2013: Sudan](#), 27 February 2014
[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons
[...]
Internally Displaced Persons (IDPs) [...]
Large-scale displacement continued to be a severe problem. [...]
In Blue Nile and Southern Kordofan, there were 178,000 and 557,000 IDPs, respectively. More than 40,000 persons from Abyei remained displaced in South Sudan and southern Abyei, the region between Abyei and South Sudan. [...]
There were numerous reports of abuse committed by security forces, rebels, and militias against IDPs, including rapes and beatings. Abuse of IDPs by government forces and government backed-militias in the Southern Kordofan conflict was reported. [...]
In Southern Kordofan and Blue Nile, the UN estimated there were more than one million displaced and otherwise conflict-affected persons.

Annual reports for 2012 (USSD), 2014 (Amnesty International) and 2015 (Freedom House) have been included. It seems information covering the year 2013 has been left out despite the sources included in this request publishing such a report.

Information provided at paragraphs 4 and 5 by Jane's Sentinel Security could not be assessed as it can only be accessed on a subscription basis. It would have been useful if this would have been

made clear in the respective footnotes, including a sentence that upon request this could be shared with the decision-maker [this is a welcomed practice being observed in more recent CIGs].

7.7 Sudanese refugees in Israel (06/15-058), 16 June 2015

What is the position of returnees to Sudan from Israel? In particular if they have submitted a claim for asylum; What is the general relationship between Israel and Sudan?; Does the Sudanese passport have any proscription against entering Israel or it not being valid to travel to Israel?; Is there evidence of Israel returning failed asylum seekers or illegal immigrants to Sudan?

Four specific questions are posed, but the COI Request does not directly address each of these. Whilst it does specifically addresses the ‘Relationship between Sudan and Israel’; ‘Israel’s relationship with South Sudan’ and ‘Sudan passports and Israel’ it presents information under the more general topic ‘Israel and Sudanese asylum seekers’. It is therefore not very user friendly for those interested specifically in the position of returnees to Sudan from Israel or evidence of returns of failed asylum seekers to Sudan.

Furthermore, the general topic of ‘Israel and Sudanese asylum seekers’ focuses more on Israel’s treatment of Sudanese asylum seekers in Israel, and no information is provided on the actual position or treatment of Sudan asylum seekers on return to Sudan, which is the specific question posed in the COI Request. This is despite there being a body of evidence in the public domain on the Sudanese authorities’ treatment specifically of deportees from Israel available at the time of publication of the COI Request (16 June 2015). Indeed, the following illustrative excerpts are from sources cited elsewhere in the same COI Request:

- Human Rights Watch, [*“Make Their Lives Miserable”: Israel’s Coercion of Eritrean and Sudanese Asylum Seekers to Leave Israel*](#), 9 September 2014

[...] The Fate of Eritreans and Sudanese Returning Home

[...] Some Sudanese who returned to Sudan have faced persecution. One Sudanese returnee told Human Rights Watch security officials interrogated and tortured him on his return to Sudan about his membership in Darfuri opposition groups while two others said they were interrogated and held for weeks at times in solitary confinement. One man was charged with treason for traveling to Israel and one returnee’s relative said his brother disappeared on return to Khartoum. Four others said they were interrogated and then released. [...]

A 36-year-old Sudanese man from Darfur who returned to Khartoum from Israel in August 2013 described how National Security officials tortured him when he returned to Khartoum:

I was in Israel for almost three years but I left because the police arrested me in October 2012, took me to Saharonim and said I would never get out. They put me on a plane to Cairo where I waited for four hours and then I flew to Khartoum.

Security officers checked my passport at passport control. They asked me why I only had an entry stamp for Egypt and no exit stamp. I didn’t answer. Then they asked me why I had been to Israel. And then they said ‘you are black, so why are you coming back to Sudan?’

They took me to another room and some other officers from Interpol asked me questions about Israel. They asked me for the names of Sudanese people in Israel who support the Sudanese Liberation Army (SLA). Then they read a list of names and said I should tell them what each of the people was doing exactly to try and overthrow the authorities in Khartoum.

Then they took me to National Security Intelligence just outside the airport where they held me for

four months. They tortured me during the first ten days. They beat me with big sticks and poured boiling water over me and gave me electric shocks. They shouted abuse at me, saying I was against the government because I was from Darfur and had been to Israel. They asked me repeatedly for the names of Sudanese people in Israel plotting against Khartoum. I think they stopped torturing me when they realized I had nothing to tell them.

After four months they released me. They said they would charge me with going to Israel but they have still not given me a court date. For the past four weeks I have had to report every few days to National Security to show them I have not left Khartoum.

A 32 year-old man from Darfur who returned to Khartoum from Israel in February 2014 described his eight-week-long detention and interrogation on returning to Khartoum:

After almost six years in Israel, I decided to leave in February [2014] after the government said they would detain any Sudanese person in Israel who had been there for more than three years. I knew that they would detain me for an unlimited amount of time and that is a form of mental and physical imprisonment.

When I arrived in Khartoum, security officials held 125 of us coming from Israel on the same flight and then handed us over to National Security who took us to their building in Khartoum's Sahafa District. There they interrogated me about my political history in Darfur and my support for one of the groups opposing the government there. They knew I had participated in public protests in Israel and asked me about that. The next day they took me to another National Security office near Khartoum's Shandi bus station, which the officers there called "the hotel." There they threatened to beat me if I didn't tell the truth.

On the third day, they took me to Kober prison in Khartoum and put me in a cell with 28 other people who had also come back from Israel. They held me there for eight weeks including about 20 days in solitary confinement. National Security interrogated me many times in the building they called "the hotel." It was always the same questions about my political views on the conflict in Darfur, which groups I supported there and why I had gone to Israel. At the end of the eight weeks they took me to the prosecutor who charged

me with treason for going to Israel. He then released me on bail after my family sold all their land and paid \$ 40,000. They confiscated my passport and banned me from travelling for five years.

Human Rights Watch has previously documented torture in National Security's political headquarters located near the Shandi bus station in Khartoum's Bahri district. Human Rights Watch also spoke with a man in Khartoum whose brother, from Sudan's Nuba Mountains, spent a number of years in Israel. The man said his brother called him in March 2014 to tell him he was leaving Israel. On the day he left Israel, one of his friends, also in Israel, called the man in Khartoum to say his brother had boarded the flight and that he would land in Khartoum that evening. Since that time, neither the man's brother nor his friend in Israel has had any news.

In January 2014, the Israeli paper Haaretz reported on the fate of relatives of a Sudanese man who returned to Sudan from Israel with his wife and children after he was summoned to the Holot detention center. He told the paper that while he was away from his home in Khartoum, security forces "beat and intimidated" his mother and siblings and that he and his family went into hiding and that he eventually left Sudan again with his wife and children, fearing for their lives.

Human Rights Watch also spoke with four other Sudanese who said security forces interrogated them on their return to Khartoum about their time in Israel and were then released within 72 hours. [...]

- Australian Refugee Review Tribunal, [RRT Research response](#), 4 February 2008 [original emphasis]
[...] 6. What information is there about the treatment of returnee failed asylum seekers to Sudan?
[...] The Danish Immigration Service's August 2001 report on its fact-finding mission to Khartoum in late 2001 refers briefly to the situation of returnee failed asylum seekers in its discussion on the general conditions of entry into Sudan for citizens:

Abdulbagi Albushra Abdulhay, Major General, Director of Passport and Immigration, General Administration, Khartoum, denied that Sudanese citizens who had stayed abroad for some time would be arrested or questioned by the authorities on their return home. He said that no Sudanese would be questioned about his circumstances while abroad, however long he had been away, and whether he had been in Western Europe, the USA or other countries, **with the exception of Israel. If a person had been in Israel he would be questioned.** [...]

There is a considerable amount of current information on the views of the Sudanese government with regard to returnee asylum seekers specifically from Israel. During 2007 several thousand African asylum seekers entered Israel via Egypt, with a majority being from Sudan. In July 2007, the IRIN news website quoted the views of Sudan's Minister of the Interior, who stated that returnees asylum seekers from Israel would be punished:

...African asylum seekers

Human rights organisations estimate that about 2,000 African asylum seekers have entered Israel so far this year. About 70 percent are from Sudan, including over 250 refugees from the Darfur region.

... **Sudan's Minister of Interior Zubair Bashir Taha said on 9 July that Sudanese law will be applied to all returning to the country, which observers take to mean that refugees who have been to Israel will be punished. The two countries consider each other "enemy states"** ('Sudanese asylum seekers take long bus ride to find bed for night' 2007, IRIN News website, sourced from Reuters-AlertNet website, 9 July <http://www.alertnet.org/thenews/newsdesk/IRIN/7089ab918c86a830b17f4395f41528e0.htm> – Accessed 30 January 2008 – Attachment 25).

Human Rights Watch also referred to the situation of returnees to Sudan from Israel in a 3 November 2007 statement on Egypt's forcible return of at least five asylum seekers to Sudan. HRW refers to the views on returnees from Israel of the Sudanese Foreign Minister and Sudanese Refugees Commissioner:

...Forty-four Sudanese, three Ivorians and one Somali have been held in incommunicado detention since Israel forcibly transferred them to Egypt on August 18, after they crossed briefly into Israel. Twenty-three in the group are known to be refugees or to have made asylum claims. At the time of the transfers, Israel claimed that Egyptian President Hosni Mubarak had assured Israeli Prime Minister Ehud Olmert that Egypt would not return refugees to Sudan. Egypt has denied any such agreement, and will not acknowledge the group's continued detention or provide any further information about them.

...**In addition to being forcibly returned to the armed conflict in Sudan, the five or more Sudanese could face persecution because they had sought refuge in Israel, which Sudan considers an enemy state. The Sudanese Foreign Ministry stated in September that visiting Israel was a crime. In July, the Sudanese Refugees Commissioner claimed that Sudanese refugees in Israel wanted to "implement Zionism agendas against Sudan," and called on Egyptian authorities to "firmly penalize any Sudanese refugees if they were found trying to infiltrate through Egypt into Israel."**

"In the face of Sudan's record of rights abuses and its hostility toward its citizens who seek refuge in Israel, Egypt's apparent decision to forcibly return Sudanese asylum seekers is unconscionable," Whitson [HRW's Middle East and North Africa Director] said (Human Rights Watch 2007, 'Egypt: Do Not Return Detained Sudanese' Human Rights Watch website, 3 November <http://hrw.org/english/docs/2007/11/03/egypt17233.htm> – Accessed 30 January 2008 – Attachment 26). [...]

7.8 Nationality law in Sudan (04/16-043), 20 April 2016

What are the rules surrounding acquiring Sudanese citizenship by naturalisation?; Who do you apply to in Sudan for citizenship by naturalisation?; Can Syrian nationals freely enter Sudan with no visa/valid leave?

It is considered that it would aid user-friendliness if the three distinct questions of the COI Request were dealt with directly in turn. The COI Request presents information under broad two headings 'Naturalization' and 'Entry requirements'. The 'Naturalization' section presents the relevant

legislative instruments, but no reference is provided for the ‘2. The Sudanese Nationality Act (Amendment) 2011’. UNHCR provides an English translation for example:

- [The Sudanese Nationality Act 1994 and Sudanese Nationality Act \(Amendment\) 2011 \[Sudan\]](#), 10 August 2011

Whilst Sudan’s 1994 Nationality Act sets out that “The Minister may grant Sudanese nationality by naturalization”, the COI Request does not provide any information on whom you make such an application to as per the second question posed. It is considered that it would have been useful to detail the relevant Ministry in Sudan to apply to and to provide contact details thereof, and that applications can also be made to the Sudan Embassy in the UK. See for example:

- Sudan Tribune, [Ministry of Interior – Sudan](#), undated [accessed 19 October 2016]
[...] Minister of Interior: Ibrahim Mohamed Hamed / Ibrahim Mahmoud Hamid
Salutation: Your Excellency
Address: Ministry of Interior, PO Box 873, Khartoum, Sudan
Email: mut@isoc.sd [...]
- UK Foreign and Commonwealth Office, [Living in Sudan](#), first published 31 December 2013
[...] Entry and residence requirements
[...] Useful websites:
[Sudan Embassy in the UK](#)
[...] Driving licences and vehicles
[...] Useful websites:
<http://www.moi.gov.sd/> (Arabic only)
- [Sudan Embassy in the UK](#), undated [accessed 19 October 2016]
[...] Consular Services
[...] Forms and Arabic Instruction
Citizen Services
All applications should be submitted to the Consular’s office at:

Embassy of The Republic of The Sudan
Consular Section

3 Cleveland Row
St. James
SW1A 1DD
London
Phone: 020 7839 8080

The ‘Entry requirements’ section of the COI Request provides general information on entry visas required for tourists and business. However, no specific information is included on the particular question raised of whether Syrian nationals are able to enter Sudan without visas. The following COI available at the time of publication of the COI Request (20 April 2016) addresses this point:

- U.S. Department of State, [Country Report on Human Rights Practices 2015 - Sudan](#), 13 April 2016
[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons
[...] Access to Asylum

[...] Since the beginning of the Syrian conflict in 2011, 25,000 Syrians have registered with UNHCR in Sudan. The government estimated 80,000 Syrians had arrived in Khartoum since the start of the conflict. The government did not require visas or residency permits for Syrians as it considered them “brothers and sisters.” Following a marked increase in Syrian arrivals throughout the year, however, the Sudanese Commission for Refugees restarted registration of Syrian nationals (as “others of concern”) in November to better account for their number and needs. [...]

- Al Jazeera, [*'At least we are treated as humans': Syrians in Sudan*](#), 7 December 2015
[...] Syrians are permitted to enter the country without a visa and, once there, enjoy the same rights and services - such as access to state education and healthcare - as a local. And, unlike the citizens of many other Arab countries, Syrians also get special treatment when it comes to securing residency permits - the result of an agreement between the two countries that dates back to the 1960s. [...]

8. Information about the Reviewer

As a specialist country of origin information (COI) researcher, Stephanie Huber has over nine years experience of conducting COI research for individual asylum and human rights claims, including on Sudan, for use in representations to the Home Office, the Immigration and Asylum Chambers and to international refugee decision making bodies. Ms Huber has also provided COI research for a number of Country Guidance (CG) cases both in her current position as Director at Asylum Research Consultancy (ARC) and in her former role as Research Officer at the Immigration Advisory Service (IAS) including for a possible CG case on the treatment of Beja Congress members, JEM members and refused asylum seekers. During 2016 Ms Huber has published a query response commissioned by UNHCR on West Kordofan and South Kordofan focusing on cattle raiding and inter-communal violence and forced recruitment of Arabs by the SPLM-A/N, and was the lead ARC researcher for the COI Country Report on South Kordofan and Blue Nile. Previously, Ms Huber was the joint ARC researcher for the country report on Darfur (October 2015), a query response that looked at the situation of Darfuri, Nubans, other ethnic and/or religious minorities, students, political activists, human rights activists, journalists, IDPs and returnees living in Khartoum and Omdurman but who are not originally from there (September 2015) and the query response on Darfuris and Nubans living in Khartoum and Omdurman (April 2015).

A4: Vietnam Country of Origin Information requests; Trafficking; and Opposition to Government.

**Review of Country Information
and
Guidance Reports
For
Vietnam**

**Trafficking
and
Opposition to the Government**

also

RESPONSES TO COI REQUESTS

October 2016

**Prepared for the Chief Inspector of Borders and Immigration & the Independent Advisory Group
on Country Information (IAGCI)**

Date Review Submitted: October 2016

Linda Hitchcox

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This Review provides a commentary on the Country Information and Guidance (CIG) for *Vietnam: Trafficking*, May 2016 and *Vietnam: Opposition to the Government*, December 2014. The Review also examines responses to individual Country of Information (COI) Requests. The Review is commissioned by the Independent Advisory Group on Country Information, and is therefore drafted in line with instructions received through the IAGCI Chair.

This Review aims to assess the Country Information in terms of its accuracy and balance, with the objective of ensuring that it offers an up-to-date and comprehensive summary of the most relevant available source material reflecting the human rights situation regarding trafficking in and from Vietnam and being in opposition to the Government. The Review signals the key issues raised in asylum claims made by Vietnamese nationals. It does so by checking the citations in the report as well as the original documents from which they are drawn, by evaluating their continued relevance, and by identifying more recent, alternative, readily available sources that will usefully supplement the substantive content of the report.

The scope of the Review also includes a more general assessment of the CIG Report's coherence and format, commenting on the methods used in its compilation, and offering suggestions on how its structure and/or organisation might be improved to deliver the content more effectively in the context of the report's goals.

9. Overall comments

Summary of essential findings for the CIG Reports on Vietnam related to [1] Trafficking and [2] Opposition to Government, reviewed separately and showing the most important findings.

Report 1: CIG Vietnam: Trafficking

- 2.1. Report 1 provides coverage that is comprehensive and to purpose, pointing out a widespread and apparently increasing problem.³⁸
- 2.2. Report 1 makes the essential point that the range of trafficked individuals is broad, being drawn from a wide spectrum of motivation, opportunity and compulsion, and therefore does not form one social group [see 2.2.1]. In most forced movements there is almost always some form of involvement with traffickers. The types of contact vary along a spectrum, from the brutal coercion of migrants to a chance bribe, escort, or exchange of services enabling travel and escape. This point draws attention to the pressing reasons why people may comply with a trafficked-assisted journey, and also might make it risky to return to Vietnam.
- 2.3. Victims of trafficking may have been seized by chance from stable situations³⁹ but are also those in uncertain circumstances, which make them likely to respond to offers of escape or a change of life. The trafficking of young children is now a major concern, with reported thousands in Britain and Europe involved in working in businesses such as cultivating cannabis and kitchen work.
- 2.4. The background to the growth of trafficking is more clearly described in Report 2. There has been a tendency towards a hardening of attitudes within the Vietnam Government, [despite Vietnam's agreement to various protocols related to human rights⁴⁰]. This tendency is demonstrated in an increasingly firm response towards dissenters and activists of all kinds: religious, political, social and displaced, especially minorities⁴¹.
- 2.5. At the same time, there is a slowing of the economy⁴², reported widespread poverty, corruption,⁴³ and pressures on cultivatable land. [see also in CIG Vietnam: Opposition to Government]. In addition, Vietnam is facing uncertainty in the wider arena of diplomatic relations with both Russia and China, adding to an atmosphere of uncertainty and tension⁴⁴.
- 2.6. Item 2.3.4 (Report 1) suggests that people can regularly be returned or move around Vietnam, undetected. Because of the surveillance networks and the strength of the Party system, it is unlikely that a trafficked person may return to Vietnam, or move to different areas, and not be noticed by Government. The size of the cities and the population are unlikely to be an adequate cover, since Government networks of known individuals appear to be fairly comprehensive. The reach of the Party extends to village and commune level everywhere in Vietnam. As one example [out of many] of how this control may operate, last year returnees from Australia were incarcerated on return, even though, through diplomacy, their safe passage and reinstatement was assured⁴⁵.

38 www.theguardian.com 23.5,2015

2. <http://www.rfa.org/english/news/vietnam/land-03092012215643>

39

40 Human Development Report 2015 -Work for human development Briefing note Vietnam .UNDP. see also: Status of ratification of major international and regional instruments relevant to minority and indigenous rights as of October 2007

41 80th Session of the Committee on the Elimination of Racial Discrimination (13 February – 9 March 2012)

42 September 2016. The WORLD FACT BOOK: CIA on line

43 Guardian: 22/4/15. [excerpt] Vietnam Forty years on: how a Communist Victory gave way to Capitalist Corruption. Nick Davies

44 Asiatimes.com/2016/05/vietnam-is-russias-bridge-to-asean; www.foreignpolicyjournal.com/2016/.../the-china-factor-in-russia-vietnam-security-ti...5 Jan 2016; Telegraph 8/10/16: Russia says it may reopen Soviet-era military bases in Cuba and Vietnam.

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- 2.7. There is a growing, internal migrant population living in extreme poverty⁴⁶, mainly composed of ethnic communities moving or displaced from highlands into urban areas. [see also CIG 2]. Failure to register or difficulties in being able to access registration means lack of access to any Government social insurance or assistance. At present, coverage of social insurance schemes for this group is stated as limited.⁴⁷ They may be regarded as a sector which is vulnerable to trafficking.
- 2.8 From items 2.4-2.7, it would seem that the sources of evidence in CIG 2 are complementary to CIG 1, and sometimes better considered together to gain a more complete picture.

10. Report 2: CIG Vietnam: Opposition to Government

- 3.1. The CIG Vietnam on *Opposition to Government* provides a comprehensive view of the generally over-riding presence of state authorities in Vietnam e.g. item 2.1 [Overview].
- 3.2. If the subject was to be further explored, and perhaps more neutrally confirmed, it is suggested that sources are not only drawn from the US Government and related agencies, but should also include press reporting, visitor/academic and journalist accounts and NGO documentation.
- 3.3. The Government of Vietnam is currently under some pressure in the region, which may also be a factor creating unease.. Recent destabilising pressures such as deteriorating relations with China over Spratleys and South China Sea, the possibility of Russian bases, US interests in the area, and competitive regional markets are coinciding with an increase in internal population pressures. These factors may be part of the picture when considering the rise in those motivated to leave⁴⁸.

Summary of Recommendations:

1. **Consider approaching the issue of trafficking as a type of experience that is common among forced migrants, rather than a category of a particular individual.** Trafficking tends to be opportunistic, taking advantage of circumstances that encourage or force people to move. It is a crime which nearly always increases hardship, poverty, loss of status and distress; according to the Anti- Slavery Act 2015:
www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling
2. Following point 1, it is probably useful to **read both Reports 1 [CIG Trafficking] and 2[CIG Opposition to Government]** in conjunction with each other. The background in the country of origin, Vietnam, is vital to understanding how the person comes to be vulnerable to being trafficked. It also helps to explain the operational ‘drivers’ of the trafficking ‘industry’ both inside Vietnam and Southeast Asia. These drivers can rapidly shift in focus ,depending on how local pressures develop, from government, communities and trafficking opportunists. On arrival, these

⁴⁶ **Ethnic minorities in Vietnam Out of sight: Continuing grinding poverty in Vietnam’s minority regions is a liability for the Communist Party; ‘The Economist’ April 2015**

⁴⁷ **U nited Nations Human Rights Council: Mission to Vietnam: Report on the question of Human Rights and Extreme Poverty’.** Magdalena Sepulveda Carmona A/HRC/17/34/Add.1 See pp.14-16.

⁴⁸ **Council on Foreign relations: Contingency Planning Memo No 26. J Kurlantzick; Asia Times 26/5/07 and 3/13, Andrew Forbes; Reuters ‘Vietnam builds Military to Face China’ Greg Torode, 18/12/15**

factors will affect presentation of claims and ‘perceived threat’ scenarios.

3. Report 2, ‘**CIG Opposition to Government**’ might be further improved with a succinct overview of the geo-political and economic circumstances of Vietnam. The Government of Vietnam has been observed to become more tense and authoritarian in the last five years: a tendency that is likely to encourage migration of nationals.
4. **A wide range of sources** would probably improve understanding of an evolving situation by means of a broad range of data. Currently, both CIGs have a heavy reliance on US material from State sources and related agencies. It is recommended that the range be extended to reports from NGOs, journalists, broadcasters and social media, in order to gauge general public opinion and action related to law.

4) Responses to Country of Origin Information Requests

The responses provide relevant information and the reader is directed to a range of sources, including previous CIG papers. Where the request relates to specific rules, it is relatively straightforward to cite clauses of the particular acts that are involved and which will guide judgement.

In reality, most legal cases will also take account of a balance of probabilities concerning the exact circumstances in which migration or trafficking took place, the roles of related others and underlying objectives.

In Vietnam, the task is to start with the human rights group of legislation, the majority of which has been adopted by the Government. Then, it is necessary to interpret how this legislation may be applied in practice and what group or sector is most likely to be at risk, or under threat. For example, an ethnic minority may continue to practise forms of Buddhism or adopt inherited practice related to land rights and its management. They are likely to find themselves at risk of confronting their Government which aims at order and shared national identity.

The challenges faced by the Vietnam Government are considerable; it has the enormous task of forging a nation out of many disparate ethnic and religious groups, with a deep divide between north and south Vietnam [following disastrous years of war].

This task still appears to be based on the fact of having won the war on socialist and militarist principles, and these continue to control Vietnam politics. At times of stress or challenge, these principles are the ‘essential’ tool by which loyalties may be judged by those in authority.

COI Requests and Responses

4.1. Religious Groups

4.1.1. COI Requests:

1. Is Pure Hoa Hao Buddhism allowed anywhere in the country?

2. Is relocation possible? Can we return to Vietnam?

4.1.2. Responses:

The general controls related to religion should be considered with regard to Decree 92. [dvo.org/wp-content/uploads/2014/07/vietnam_decree_no-92_summary.pdf] This crucial decree came into effect on 1 January 2013, and in some ways was a positive attempt to regulate religion as part of a Vietnamese society. Instead, the Decree has tended to increase division for the following reasons.

- i. There is no trust on either side, because of abuses that have taken place over the years since the war and the ‘*old style/voice from the past*’ label through which religion is viewed in its role as part of State.
- ii. Religious leaders of all shades, as well as lawyers and activists, have criticised the new decree for being more harsh than its predecessor, for using vague and ambiguous terminology, and enforcing bureaucracy and regulation on what the activists describe as ‘the peaceful and lawful activities of religious believers’.
- iii. Hoa Hao Buddhists are included, and we should recognise that this group is heavily associated with South opposition during the war in the 1970s. Currently, they are unlikely to get interest and sympathy from Government.
- iv. Overall, Decree 92 is aimed at the control or management of religious groups and activities, rather than the protection of freedom of religion or belief. Many religious groups choose not to register because they believe firmly that registration will enable the authorities to increase their control over their activities.

[See Refs, Section 1, this doc: also <https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam>]

4.2. Crime and Corruption

4.2.1. COI Requests:

1. *Is there a criminal data base in Vietnam?*
2. *If an individual moved to a different area, would he would be traceable to the authorities?*

4.2.2. Response

2.1. Vietnam has a well-supported reputation for operating as a police state.. It is reasonable to accept that functioning data bases are kept of criminal activity. Most countries keep such a data base.

Vietnam is also a country in a gradual state of change in political economic and social affairs [see e.g <http://www.worldbank.org/en/country/vietnam/overview>] and the Government has shown determination for reform. The *2011 – 2020 Socio-Economic Development Strategy* (SEDS) gives attention to structural reforms, environmental sustainability, social equity and emerging issues of macroeconomic stability. It defines three “breakthrough areas”: (i) promoting human resources/

skills development (particularly skills for modern industry and innovation); (ii) improving market institutions, and (iii) infrastructure development.

2.2. The aim of the Government is to consolidate Vietnam into a united State from many disparate ethnic groups. Consequently, in relation to the individual mentioned in Request 4 [item 2.3.4.], we can assess that there is only a slight chance; i.e. that moving to a different area would improve safety and delay arrest. [see also Section 1: 1.2.6].

2.3. As mentioned in section 1, it is very difficult to claim benefits of any kind without registration, leaving the individual, who is seeking not to be noticed, to a life on the very margins of existence. [see discussion of Ho Khai registration [See item 4.8. this doc].

2.4. The ‘Responses in Section 1.2.6. and in this Section, demonstrate the network of investigative policing functions, which seek to achieve as much coverage of the country as possible.

4.3. Political Affiliation – Monitoring of Demonstrations

1.1.1. COI Requests

- 1. Do the Vietnamese government take note of people attending demonstrations at their embassy in London?*
- 2. Do the Vietnamese government have any interest in someone who has been demonstrating outside their embassy in London if he returned to Vietnam?*
- 3. Do the Vietnamese government view Amnesty International as an opposition political group?*

1.1.2. Response:

Regarding demonstrations in UK, while it is difficult to find factual evidence to respond to this very legitimate inquiry, it seems likely in the present political climate, that Vietnamese Embassy staff would have an interest in those who are demonstrating outside their door, and at least take photographs.

However, as anecdotal evidence seems to show, an individual with no criminal record, arriving back from abroad is unlikely to be challenged if he is not known as a specific threat.

Much depends on the possible further problems that might arise once back in Vietnam, where demonstrations against Government policy are likely to be confronted. If the individual was already at risk, then one piece of contributing evidence might indeed be demonstrating outside the Vietnam Embassy in London. Overall, the likelihood is that one legal demonstration in a foreign country will not be noticed, unless it is part of a much larger picture of serious offences under Vietnam law.

Amnesty International appears to be regarded with caution and some suspicion by the Vietnam Government, probably because it represents a westernised version of human rights and is an independent action group.

Amnesty was contacted for their opinion [10 October 2016], regarding such demonstrations and they referred the following cases:

- i. Case One deals with a case of an activist being arrested following an overseas advocacy/ awareness-raising tour: <https://www.amnesty.org/en/latest/news/2016/07/ending-torture-in-viet-nam/>
- ii. The following case refers more generally to the treatment of prisoners of conscience in Vietnam: <https://www.amnesty.org/en/latest/news/2016/07/the-secretive-world-of-viet-nam-torturous-prisons/>
- iii. The most recent case [Dec 2015] which highlights Article 88 is referenced here: <https://www.amnesty.org/en/latest/news/2015/12/viet-nam-arrest-of-human-rights-lawyer-highlights-spurious-commitment-to-human-rig/>

An important consideration is Article 88 of the Vietnam Penal Code, which has been interpreted by human rights watchers as being in contradiction to the International Covenant on Civil and Political Rights to which Vietnam is a signatory. The terms of Article 88 read as follows:

Article 88:-Conducting propaganda against the Socialist Republic of Vietnam:

1. Those who commit one of the following acts against the Socialist Republic of Vietnam shall be sentenced to between three and twelve years of imprisonment:

a) Propagating against, distorting and/or defaming the people's administration;

b) Propagating psychological warfare and spreading fabricated news in order to foment confusion among people;

c) Making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Vietnam.

2. In the case of committing less serious crimes, the offenders shall be sentenced to between ten and twenty years of imprisonment.

[<http://un-act.org/wp-content/uploads/2015/11/Vietnam-Penal-Code.1999.en>]

1.4. Nationality and Same Sex Relations

4.4.1 COI Requests:

The question on nationality relates to an applicant who is a Pakistani national living with a Vietnamese

national as a dependent on his claim. The applicants are two males who are joined in Civil Partnership in the UK. I have noted in section one, that being gay is not illegal in Vietnam.

1. Is it possible for the male Pakistani lead applicant to apply for leave and return to Vietnam with his Vietnamese male partner to live together?

2. What is the process the Pakistani national needs to go through to make this application and what application does he need to make?

4.4.2. Response:

There appear to be two sets of problems in this case: the first to do with acceptability of same sex relationships in Vietnam [even though the legislation is in place], and the second problem, which is about questioning why it has to be the Pakistani who legally brings his partner through the migration process to reintegrate back into Vietnam as a citizen.

It is puzzling or perhaps suggestive of some other problem, that the Vietnamese does not want to return through immigration authorities and to declare himself to be responsible for his partner. It may be that he does not want to act as the dominant partner, but the reluctance might also hint at a concern that he might be targeted, if he is responsible for bringing his Pakistani partner into Vietnam.

The following article is from wikipedia- '*Same sex marriage in Vietnam*' and may have some bearing on the above dilemmas:

On 27 May 2014, the National Assembly's Committee for Social Affairs removed the provision giving legal status and some rights to cohabiting same-sex couples from the government's bill to amend the Law on Marriage and Family. The bill was approved by the National Assembly on 19 June 2014, and took effect on 1 January 2015.

See also: <http://www.gaystarnews.com/article/same-sex-marriage-no-longer-banned-vietnam-%E2%80%93-still-not-recognized060115-jan-2015>.

It appears that there is lack of clarity on the exact rights of gay couples. The wider community is not very positive. It is reported that a public poll that was conducted in Vietnam at the same time, found that only a third of the population was in favour of gay marriage

It is also worth noting that in *The Family Act 2014/15* described in ref: <http://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=10874> marriage only applies to a man and a woman. No other kind of legal partnership is mentioned.

In addition:

Entry of Movement law, passed in 2014 on foreigners' entry into, exit from, transit through and residence in Vietnam and ratified in 2015, states that : **for foreigners it is illegal to be found:**

4. Providing false information or documents in order to obtain permission for entry into, exit from, transit through or residence in Vietnam.

5. Taking advantage of entry into, exit from, transit through or residence in Vietnam to act against the Socialist Republic of Vietnam; infringing upon rights and legitimate interests of other agencies, organizations and individuals.

The conclusion is that since the status of gay relationships is still fragile in Vietnam, and less than equivocally expressed in law, it seems likely that the Pakistani partner is taking some risk by applying to enter Vietnam with his partner.

1.5. Single Mothers

1.5.1. COI Request:

Can you provide information regarding current treatment of single mothers in Vietnam. Particularly those who have had children out of wedlock?

1.5.2. Response:

Women in Vietnam are still a long way from being seen as socially acceptable and as able as men. Constitutionally, women have equal rights [see *Article 130, VN Penal Code No. 15/1999/QH10*], but in reality, are more likely to suffer prejudice in society and under the law.

Particularly within the Kinh majority population, there is still enough belief or influence in the law of Confucius. This influence continues to encourage a favouritism towards boys in families, and more limited expectations regarding girls. These features are in addition to the usual gender issues that women face in gaining respect within society

Throughout the county, there are many variations of this general attitude, depending on circumstances such as the ethnic minority involved, economic environment, ethical principles and location. [See e.g. [Enders, Kirsten; 2015: *Weaving women's spheres in Vietnam*. <https://books.google.co.uk/books?isbn=9004293507>](https://books.google.co.uk/books?isbn=9004293507)]

The background situation, in terms of gender relations, extends to single women who are not seen to have 'entered' family groups, but instead have their children alone. According to popular attitudes, such women must be more likely to fail in some way or have already failed/ brought shame, just by finding themselves in that situation.

An indication of attitudes is demonstrated in a recent survey on sexual and physical violence which was much applauded for progress, because currently, slightly less than two thirds of the population accepted such abuse as inevitable. [see below].

Slow change is continuing and widespread: see e.g. - [Global Action 2016; 9: 10.3402/gha.v9.29577](https://doi.org/10.3402/gha.v9.29577). Published online 2016 Feb 29. doi: [10.3402/gha.v9.29577](https://doi.org/10.3402/gha.v9.29577) PMID: [PMC4780074](https://pubmed.ncbi.nlm.nih.gov/2780074/); [Changes and socioeconomic factors associated with attitudes towards domestic violence among Vietnamese women aged 15–49: findings from the Multiple Indicator Cluster Surveys, 2006–2011](https://doi.org/10.3402/gha.v9.29577) [Oanh Thi Hoang Trinh,^{1,*} Juhwan Oh,^{2,*} Sugy Choi,² Kien Gia To,¹ and Dung Van Do](https://doi.org/10.3402/gha.v9.29577)

Changes in gender relations seem to be occurring for two main reasons. The aftermath of the war left very many, single women forced to enter the workplace. Earning a salary and with a lack of need to be dependant on a man, some women chose not to become dependent and to remain single. This group is slowly having influence on future generations and the coding of the law. There is also a need for skilled women to enter the workplace, due to gradual growth

in the economy and increasing opportunities for female labour in production and general paid employment.

For a general overview on this topic, see: [Ann Brooks, 'Social Theory in Contemporary Asia, pub by Routledge, 2011.](#)

4.6. Money Lenders and Loans

1.1.1. COI Request:

The claimant claims to have been in business and he borrowed money to fund a contract. That contract fell through and he could not repay the debt. The claimant claims to have borrowed money from the “Hung Cuong Money lenders” and that they have many branches across Vietnam including the branch in Ph Ny village, Hanoi where he got his loan from.

- Is there any evidence of a ‘Hung Cuong Money lenders’ lending business’ money (legal or illegal) operating in Vietnam?
- If so is it a legal business? And what is scope of operations?
- Is there any evidence that it would loan 800 million dong to an unincorporated business without any security? Or without being shown the borrower’s financial statements?
- If such a business exists is there any evidence to show how it would seek to recover funds from a loan in default?
- The claimant described himself as bankrupt, but claimed not to have gone through a formal legal proceeding. Can you provide any evidence as to the insolvency laws in Vietnam, in particular relating to sole traders (unincorporated business)?
- Can you find any evidence which would show how the authorities, would react to a complaint against a creditor pursuing debt by means of intimidation, threats or violence?

4.6.2 Response

*Hung Cuong*⁴⁹ is a fairly common name or phrase, associated with the nickname of a popular musical artist before the war, who left for the USA. The phrase has quite positive associations [*there is a hotel chain called Hung Cuong and it may also refer to national assembly members*], so it might be a possible choice of name for moneylenders. Moneylenders abound in Vietnam and tend to be loosely regulated, or operate informally. It is the traditional way of doing business, currently strained by the growing need to have capital, in a situation of rising population and endemic poverty, with lack of enforced regulations.

In recent years there have been many stories of students accumulating debt⁵⁰, e.g. - In Ho Chi Minh, there are numerous ‘universities’ where students are paying for their education and who have been reported as entering threatening situations by negotiating with ‘money lenders’, who may also have gang leaders as friends, if reports are to be believed. It is likely that the claimant is in a precarious position [especially if he has not undertaken formal bankruptcy proceedings – see 4.7. below.

The legality of the business, which it is claimed is being established will be the responsibility of the owner. One could usually assume that the debt is a private matter, especially if it is a large sum, without insurance. The owner is likely to be responsible for the debt and the business.

49 [Hung Cuong is written without the essential tonal diacritics](#)
50 [www.thanhniennews.com › 'Society', 10 Dec. 2010](#)

There are procedures for bankruptcy. They tend to be long and complicated and may take several years to complete. The full details are given at - <http://www.doingbusiness.org/data/exploreeconomies/vietnam/resolving-insolvency/>

It appears likely that the claimant has decided not to embark on this long process. This may mean that officially he is not formally bankrupt, and therefore may also be at risk of being accused of a form of theft by the VN authorities, if the money lender is active.

1.6. Double Jeopardy

1.6.1. COI Request

The subject of the Request was convicted of cannabis cultivation in the UK and sentenced to 4 years imprisonment. He was subsequently served a deportation order and had an asylum claim refused. He has now lodged further submissions claiming if he is returned to Vietnam he will be subject to double jeopardy. He claims that he will be imprisoned and most likely sentenced to death for this crime.

Article 6 of the Vietnam Criminal Code states that: Vietnamese citizens who commit offences outside the territory of Vietnam may be examined for penal liability in Vietnam.

Is there objective evidence of the frequency whereby Vietnamese citizens who commit crimes abroad, may be prosecuted on their return to Vietnam the question is specifically in relation to cannabis charges as opposed to heroin, cocaine or any other class A drugs Any information relating to all of the above would be very much appreciated.

4.7.2 Responses:

This individual is concerned that having been prosecuted in the UK and served his sentence, he will have to serve another sentence on return to Vietnam, thus facing double jeopardy.

Since at least 2009, there appears to be no evidence of cases presented or prosecution for marijuana [cannabis] offences after return to Vietnam. As mentioned, the **Penal Code of Vietnam Article 93 states that those who illegally produce narcotics in any form are liable to sentences of between 2-7 years.** Marijuana is clearly included.

The issue remains complicated and uncertain. As an illustration, there is almost no information on refoulements available to the general public, despite the fact that MOUs have been signed between Vietnam and the UK. This appears to be a general foreign policy. For example, the Australian Government returned 47 asylum seekers in 2015, but no information has since been forthcoming regarding their whereabouts or circumstances [www.refugeecouncil.org.au].

Moreover, the individual concerned, in the COI Request, has now made himself liable to other offences such as **Article 88 -‘propagating against, distorting and defaming the people’s administration’ or 1.b, spreading fabricated news- [1999 Penal Code Vietnam]**, even if indeed he is not liable on the grounds that he maintains. By protesting it appears that he makes himself more visible and more potentially liable to other consequences.

1.7. The Ho Khao Registration System

1.7.1. COI Request: Describe what the Ho Khao does

4.8.2. Response

The Request concerning the Ho Khao system had been comprehensively answered by others, when I received it. I would only add that the penalties for losing this status can seriously affect a family and their access to a range of social support and services. There are some queries which remain not totally clear regarding those Vietnamese who have left Vietnam and are removed from their Ho Khao registration. Residence Law Implementation' 2007.

If citizenship is retained while abroad, then it is likely that, eventually, the Ho Khao can also be reclaimed.

Saigon Giai Phong Daily 29 June, [http://www.saigon-gpdaily.com.vn/Law/2007/6/56583/Attachment 2\)](http://www.saigon-gpdaily.com.vn/Law/2007/6/56583/Attachment%202).). Government Information & Reports US Department of State [http://www.state.gov/Non-Government Organisations](http://www.state.gov/Non-Government%20Organisations) Human Rights Watch <http://www.hrw.org/> Amnesty International http://www.amnesty.org Region Specific Links Asian Centre for Human Rights website <http://www.achrweb.org> .Refugee Review Tribunal 2008.

1.8. Illegal Exit and Crimes Abroad

1.8.1. COI Request :

The applicant claims he would be arrested for leaving Vietnam illegally. He also claims that he would be of interest to the Vietnamese police due to his crimes in the UK.

Are these actions likely to result in any adverse official scrutiny?

4.9.2. Response:

As stated in the responses already made regarding double jeopardy, the Penal Code of the Vietnam Government covers the situation of crimes committed by Vietnamese abroad. There are exchange and transfer arrangements between the Governments of the UK and Vietnam. There is less clarity on a 'double jeopardy' possibility, [see 4.7.], which may at least partially depend on the Vietnam Government internal policy at the time of transferral.

Regarding his illegal departure from Vietnam, the authorities may question why the applicant chose to leave Vietnam illegally, and thus commit a crime by doing so. The Penal code covers and provides penalties for unofficial/illegal movements.

Socialist Republic of Vietnam, Penal Code, 1999, http://moj.gov.vn/vbpg/en/Lists/Vn%20bn%20php%20lut/View_Detail.aspx?ItemID=610,

1.9. Use of Technology at Airports.

1.9.1. COI Request

- Does the airport in Hanoi (or any airports in Vietnam) use face recognition software, or at any of the entry/exit points?

- Are there ‘Watch’ or ‘Stop’ lists at the entry/exit points?

1.9.2. Response from the Embassy:

The Migration & Immigration Liaison Manager, located at the British Embassy in Hanoi responded to the questions above in an email, dated 17 August 2016:

- Does the airport in Hanoi (or any airports in Vietnam) use face recognition software, or at any of the entry/exit points? ‘No’
- Are there ‘Watch’ or ‘Stop’ lists at the entry/exit points? ‘Yes’

1.9.3. Response from Reviewer :

As I have observed at Vietnam airports, I agree with the comments made by the Embassy in Hanoi.

Information about the Reviewer

The reviewer is a social anthropologist who conducted D.Phil. research on Vietnam and refugee movements in the 1980s and has published extensively on Vietnam and Southeast and Central Asia. After completing her doctorate and an Oxford research post, Linda Hitchcox managed an international development and recovery programme in Vietnam for four years [EU/NARV]. She worked closely with the Vietnam Government to integrate returnees into local communities and develop livelihoods in several regions in the north and south of the country. More recently, in 2011, Linda Hitchcox contributed to a conference on Vietnamese populations now settled in Hong Kong.

In 2012, Linda Hitchcox provided an IAGCI Review for the Home Office, UK.

Annex B: Home Office Country Policy Information Team responses to recommendations contained within IAGCI Commissioned Reviews

B1: Afghanistan Country of Origin Information requests

Home Office Response to IAGCI Review

Afghanistan: Country of Origin Information Requests (COIRs)

7 November 2016

Review Conclusions/ Recommendations	Response	Home Office Comments
<p>1 Desertion from the Afghan National Police (ANP)</p> <p>On this point, so far no particular known case of actions against deserters are taken, however, the persons who leave their police posts, can also be targeted by anti-government forces because of the time they serve with police or govt. hence, he may not be able to come back to his home village/ town due to this issue. But if he can afford to go live in another location, then the risk reduces.</p>	<p>Not accepted</p>	<p>The response did say that 'CPIT was unable to find any reference to prescribed penalties for desertion from the Afghan National Police, or to any instances of deserters being prosecuted or punished.'</p> <p>The reviewer's observations may be pertinent, but are (a) speculative; and (b) for the decision maker to assess based on all the relevant factors in that particular case.</p>
<p>2 Hazara</p> <p>a. Hazaras are the third majority ethnic group in Afghanistan...</p> <p>b. Over the recent past, with deterioration of overall security situation, like all other ethnicities, Hazaras too have been targeted and killed. The outcry about this is ethicised by Hazara nationalists in order to increase their political bargain.</p> <p>c. It is true that attacks have targeted a Hazara demonstration, and some Shia shrines (p.s. Majority of Hazaras are of Shia sect of Muslims in Afghanistan). But if we look, Pashtoon, Tajik and other crowded groups have not been safe in Afghanistan either.</p> <p>d. In Kabul, a very large community of Hazaras are living, they are equally at risk like any Afghan from any other ethnicity. Except when there is a particular case that a person of Hazara ethnic group can present.</p>	<p>Partially accepted</p>	<p>The Reviewer's comments here are helpful to our understanding of the issue but there is an absence of cited publically available material to support this (other than using the reviewer as an 'expert').</p>

3	<p>Passport fraud</p> <p>a. Yes, unfortunately [it is possible to obtain genuine documents in a fraudulent/corrupt manner]. See the cases of Shia business men.....and passport change names....Check ref online...</p> <p>b. Original of NID, Two persons to guarantee that they know you, they both must be men and Afghan..... ladies will be four as legal witness.</p> <p>c. This information is although about the old passport, fraud is even evident with the newly published electronic passports....but the scale of fraud is much lower than before it must be noted.</p> <p>d. Afghan not Afghani as Afghani = the currency Afghan = Nationality</p>	Partially accepted	<p>(a)(b)(c) We will include this additional information in future COI Responses on passports if we are able to source it. (See 2. above)</p> <p>(d) Fair comment. This was a careless mistake.</p>
4	<p>Interfaith marriages</p> <p>As stated [in the COI Response] first of all, this marriage is not considered legal within Afghan legal framework. Secondly, the social stigmatisation of Sikh and Hindu Afghans within Afghanistan has been systematic over the years of war. The Afghan Muslim man will not be generally accepted by his own family for marrying a Sikh woman. Particularly if the marriage happened and the woman did not convert to Islam.</p> <p>It will be difficult to relocate this family within Afghanistan, as if the men's family discover, their life could be at risk. In Pakistan's conservative areas, this type of marriage (within refugee communities) is similarly unusual and not welcomed. Depending on the economic status of the family, if protection provided, they could relocate to large cities such as Karachi or Lahore but again, very much depending on many factors.</p>	Partially accepted	Some of this information is given in the response. The additional advice is helpful and can be included in future, if sourced.
5	<p>Tattoos in Islam</p> <p>I cannot confirm or verify this [100 lashes], as so far I did not hear such thing. We are aware of men and also some women with Tattoos in Afghanistan, This not well-received, but there is no known case of public punishment for anyone with tattoos</p>	Partially accepted	It would have been useful to know that there is no known case of public punishment for anyone with tattoos, but we were unable to find a source for this at the time.
6	<p>Ismaili sect</p> <p>The changes in perception of general population is that Ismalis are accepted as a sect of Shia Muslim. But even among educated Muslim who are not radical, the Ismailis are not 'as Muslim as Sunnis or even Shias'</p> <p>On the one hand, the spiritual head of Ismailis sect or the Naderi family have been a strong ally of President Ghazni, his son is a minister as well as owning huge businesses etc. On the other hand, as some one working with rural poor, I come across a lot of Ismailis living deep poverty.</p> <p>If an Ismaili encounters with Talib for any particular reason, or dispute, it is possible that the life of the person be at risk.</p> <p>If he just arrived from Kabul and not having concrete prove of direct threat, then maybe he is asked to provide that.</p>	Partially accepted	It would be helpful if the reviewer could expand on her first paragraph regarding the acceptance of Ismailis as a sect of Shia Muslim.

7	<p>Former members of Hezb-i-Islami</p> <p>Important changes: Add ref to recent reconciliations.</p> <p>HIG members continue to arrive in Kabul with full impunity by govt. so, given latest developments, I think the case of this person needs to reviewed based on latest developments.</p> <p>Here are some links: http://www.aljazeera.com/news/2016/09/afghanistan-ghani-hekmatyar-sign-peace-deal-160929092524754.html http://www.rferl.org/a/afghanistan-hekmatyar-peace-deal-signed/28006166.html</p>	Acknowledged	<p>The COI Request is dated 1 October 2015 and these articles appeared in September 2016.</p> <p>Nevertheless, in line with previous discussions with the IAGCI, we will link the reviewer's comments to this response.</p>
8	<p>Shura-e Nazar</p> <p>In addition to the following response which explains the history of Shora-e-Nziar, in the post-2001 context, this coalition or council's key members became key actors mainly in the security sector. To this date, there are indications that the national directorate for security (Amniat e Milli) or the intelligence branch of security is mainly controlled by members of Shora-e-Nizar.</p> <p>Their influence under current administration is reflected in the presence of Minister of Interior, Taj Mohamad Jahid. Salahuddin Rabbani (Son of late Rabbani) as minister of foreign affairs and so on.</p> <p>Key and leadership members of Shora-e-Nizar are influential inside as well as outside the government although no longer known as members of Shora-e-Nizar. It is possible that due to Shora-e-Nazar's actions during the 1990s being involved in killings and lootings, the leaders preferred to operate under other names, such as their Parties Jamiat, Itehad, Dawat etc.</p>	Partially accepted	<p>We had difficulty finding reliable sources on the presence and influence of former Shura-e Nazar members in the current government and security establishment. CPIT would be grateful for any source material or advice (in disclosable form) from the reviewer.</p>

B2: Afghanistan Women fearing GBH/Violence

Home Office Response to IAGCI Review

CIG Afghanistan: Women fearing gender based harm / violence (February 2016)

7 November 2016

Summary

The Home Office would like to thank the reviewer for the positive overall assessment (that the CIG/CPIN was 'well structured and comprehensive', 'balanced in terms of the information it provides on each section', 'provides a comprehensive understanding of the status of women fearing gender based harm and violence' and 'overall, the report is valid and covers all key areas.').

The Home Office has 'accepted' (9/20) or 'partly accepted' (5/20) the majority of points raised in the comments.

Alternatively, in line with recent discussions with the IAGCI, and the suggestion by the IAGCI panel, we have used 'acknowledged' (5/20) in places where:

- a. the reviewer has suggested material (for which we are grateful) which was published after the "cut-off date" for publication of the CIG/CPIN but are nevertheless potentially useful; or
- b. the reviewer has made a positive comment about the CIG/CPIN and does not constitute a recommendation or suggestion, per se.

We have 'not accepted' just one of them, as it reflects a specific finding from the Upper Tribunal (see comment 5).

In terms of the two specific recommendations (p3), the Home Office accepts the need to include more on women with disabilities. We will reflect further on the other recommendation re: women HRDs/women leaders. There is already material on this and we are not aware of a pressing need based on claims of this 'profile' (see also comment 1).

Review Conclusions/ Recommendations		Response	Home Office Comments
9	<p>Overall, the report is valid and covers all key areas. However, two points that it are missing are:</p> <p>a. addressing the particular conditions of women with disabilities who are among the most vulnerable groups in the country with very limited facilities. (See latest AIHRC report for further details on this.) and</p> <p>b. identifying women rights defenders or women leaders' particular situation as persons whose conditions, due to deteriorating security situation is becoming alarming, particularly in provinces and districts.</p> <p>Hence, it is recommended that the next report should add points and references on these two topics within the document.</p>	Partially accepted	<p>a. The next version will include specific references to women with disabilities.</p> <p>b. There are already several references to the situation of women rights defenders and women in public life. For example, see paras 2.3.1, 2.3.4, 8.2.1 and 9.1.2.</p>
10	<p>Understanding of the themes addressed in the CIG Reports:</p> <p>Overall, the report provides a comprehensive understanding of the status of women fearing gender based harm and violence in the country and it uses appropriate data and language to highlight different aspects of the context that could be relevant and helpful for the CIG report and indeed assessment of cases in this regard.</p>	Acknowledged	Thank you for the positive comments.
11	<p>Quality and balance of sources</p> <p>The review is balanced in terms of information it provides and sources it uses.</p> <p>The quality of the review is good, it provides very detailed information on each section and the structure of the report too covers fully all different aspects of women's status from socio-economic to political and society. The report is covering relevant and further updates on country situation ... The report is well-structured and each section provides detailed information. However, there is one area with longer details (for example Section 10.1. on women police officers) seems very detailed.</p>	Accepted	<p>Again, the Home Office appreciates the positive remarks.</p> <p>We will review the information in para 10.1 when we update this CIG/CPIN.</p>
12	<p>Guidance:</p> <p>Introduction</p> <p>On point 1.1.2: Not sure if there will be specific rule for women's human rights defenders, but I suggest following addition at the end of the 1.1.2 point:</p> <p>...serious harm includes domestic violence, sexual violence including rape, 'honour' and 'moral crimes', fear of targeted attack or assassination, fear of kidnapping.</p>	Accepted	We will reflect this when we update this CIG/CPIN.

13	<p>Particular social group (PSG)</p> <p>Suggested edits/addition for the point 2.2.1:</p> <p>In NS (Social Group - Women – Forced marriage) Afghanistan CG [2004] UKIAT 00328 the Tribunal found that that women of various socio-economic status (such as widows, women with disability, women headed households, women victims of violence and/or forced marriage, women’s human rights defenders) in Afghanistan form a particular social group (PSG) within the meaning of the Refugee Convention (also see Background and Legal context).</p>	Not accepted	<p>In <u>NS</u> (see paragraphs 100 and 102 of the determination), the Tribunal held that ‘Women in Afghanistan’ are a PSG.</p> <p>(This includes the specific categories mentioned aside.)</p>
14	<p>Assessment of risk</p> <p>2.3.1 <i>Although the government of...</i></p> <p>It is suggested that 2 references be inserted, as indicated.</p>	Accepted	<p>In part - one of the links is already in place at the end of the para.2.3.1 (Honour and moral crimes). The other information comes from the section on “Women in the public sphere”, for which a link will be inserted in the next update.</p>
15	<p>2.3.2 <i>Afghanistan remains a strictly patriarchal..</i></p> <p>(This paragraph should also be referenced.)</p>	Accepted	<p>We will reflect this when we update this CIG/CPIN.</p>
16	<p>Protection</p> <p>2.4.1 The Reviewer has recommended that the paragraph reads as follows:</p> <p><i>There are legal mechanisms in place for women to report acts of violence against them, and cases of perpetrators being prosecuted for their crimes of violence against women (VAW). In 2016, the special prosecution office on the elimination of VAWS was promoted to Deputy Attorney General position to ensure provincial and district justice sector gets better support. Also Family Response Units are planned to be form across all provinces within the office of Police Chief (Qomandani Amniya). However, lack of security, corruption in the judiciary and low level awareness of the laws protecting women, continue to allow perpetrators to escape punishment. Police and the prosecutors continuously refer cases relating to violence against women, including domestic violence, to informal justice mechanisms (jirgas and shuras) for advice or resolution when such cases should be formally prosecuted. Only a small percentage of reports of violence against women are registered with the judicial system, and about one-third of those proceed to trial. Some women are reluctant to report cases of violence to state agencies because under the applicable legal framework, women victims may be charged with adultery, and because of the victims’ fear of retaliation and stigmatization.</i></p>	Accepted	<p>We will reflect this when we update this CIG/CPIN.</p>
17	<p>Internal relocation; Certification; Policy summary</p> <p>[These sections are] comprehensive and no particular update or change is suggested.</p>	Acknowledged	<p>Thank you for the positive comments.</p>

18	<p>Country information</p> <p>4. Position of women in society</p> <p>The following addition is recommended to be added after point 4.1.2:</p> <p>During 2016, Afghanistan has experienced a significant increase in the number of Internally displaced persons (IDPs). During his visit, Chaloka Beyani, the UN Special Rapporteur on the Human Rights of IDPs highlighted the challenges that women headed household face and the importance of supporting them as a vulnerable group: “The situation has left many women as heads of households, yet they cannot adequately support their families due to discriminatory laws that prevent them from owning land or property.” (sourced)</p>	Partly accepted	The UN News Centre article refers specifically to IDPs, whereas para 4.1.2 relates to women in general.
19	<p>Following to the point 4.1.3, below paragraph should be added as a new point:</p> <p>Afghan women, particular those active in public role became under direct attacks of extreme situations such as fall of Kunduz province last summer. According to HRW, “The Taliban took control of Kunduz, they looted offices of women activists, shelters, and female-run radio stations, and issued threats that compelled dozens of activists to flee the city.” Despite the new government affirmation to enhance protection of women’s rights, failure to take steps improving enforcement of ERAW law and stopping women’s prosecution on the charges of “moral crimes”, while they are victims of forced marriage, domestic violence etc. are major persistent challenges to date.</p>	Partly accepted	<p>a. This point on ERAW is mostly covered in para.5.1.11</p> <p>b. The actions of the Taliban after taking control of Kunduz are referred to in section 8. As is standard practice, we will consider, alongside other relevant material, the extent to which this adds substantively when updating the CIG/CPIN.</p>
20	<p>Following to point 4.1.6, the below point is suggested to be added:</p> <p>The murder of Farkhunda Malikzada, 27, by a Kabul mob on March 19 2015 after she was accused of burning a copy of the Quran, galvanized women’s rights activists, who launched public campaigns and demonstrations asking for justice. The trial process of perpetrators have not been satisfactory to Farkhunda’s family nor to the civil society groups, as some of the key organizers of the mob, have not been arrested so far due to their supposed links with powerful networks. The case, although unique in its own term, also indicates an additional concern for women leaders, activists and those with public role who are already targeted by anti-government forces such as Taliban and IS.</p>	Partly accepted	<p>a. Although Farkhunda was falsely accused, it is not clear from the reports we have seen that her gender was a determining factor in the mob’s behaviour.</p> <p>b. However, the outcome of the trial process showed that perpetrators of violence against women are not being held properly accountable.</p> <p>c. Information on this case will be included in the next version, but might be more applicable in section 8 or 9, rather than section 4.</p>

21	<p>5. Legal context</p> <p>Below are suggested edits for the point 5.1.3:</p> <p>5.1.3 USIP noted 'Election legislation protects women's right to vote and sets quotas for women to participate in elected bodies. A right to legal aid is guaranteed for women and the indigent.' For example, there are a number of organisations providing free legal services for women and supporting access to justice in Kabul and other large cities and provinces. De Qanoon Ghoshtunky, Women for Afghan Women, HAWCA etc. are among NGOs supporting women's protection and legal aid needs. (References given)</p>	Accepted	We will include this when we update this CIG/CPIN.
22	<p>An additional point to be added as follows:</p> <p>5.1.12 According to the CEDAW Shadow Report on 2015 by Afghan Women's Network, all key implementing gaps that were identified in the earlier AWN CEDAW Shadow Report in 2012, are still prevalent. Additionally, the report raised concerns about the politicization of Afghan Independent Human Rights Commission (AIHRC) by the earlier administration and by the Special Human Rights Rapporteur who visited Afghanistan during 2015. (Paragraph 2 and Paragraph 22 respectively)</p>	Partly accepted	<p>We will include information on implementation of the law from the AWN Shadow report when we update this CIG/CPIN.</p> <p>But concerns of 'politicization' may, or may not, be justified. As is standard practice when updating CIGs/CPINs, we will assess this alongside the wider evidence.</p>
23	<p>6. Social and economic rights</p> <p>Suggested edits/updates for point 6.1.1:</p> <p>The population of Afghanistan is estimated 33,332,025 (July 2016 estimate). There is also a repetition of a point in the quotation that I suggest be removed. (See point 2.3.2)</p> <p>6.2 Marriage, divorce, child-custody, and inheritance laws.</p> <p>6.3 Single/unaccompanied women</p> <p>Information on above points is still valid and no recent update is reported on these parts.</p>	Accepted	We will reflect this when we update this CIG/CPIN.
24	<p>7.Harmful traditional practices</p> <p>Before point 7.2.1. the following point should be added:</p> <p>7.2.1 According to the United National report, 12 per cent of the 7.3 million underage girls that are forced into marriage every year, are Afghan girls. UNFPA report on July 20th, 2016 indicates that 57 percent of girls are married before the age of 19, about 40 percent are married at an age between 10 to 13 years, 32 percent at age 14, and 27 percent at age 15. The report adds, poverty, harmful customs and traditional practices, insecurity, and the culture of impunity, are the main reasons for increasing rates of coerced and underage marriages in Afghanistan based on AIHRC report.</p>	Acknowledged	The figures from UNFPA provide relevant detail and, although they were released after the cut-off date for publication of this CIG/CPIN. However, we will include this when we update this CIG/CPIN.
25	<p>8. Sexual and gender-based violence</p> <p>Information on the above sections is valid and has not changed significantly.</p>	Acknowledged	Thank you.

26	<p>9. State attitudes and responses to violence against women</p> <p>It is suggested to add the following point after 9.1.2:</p> <p>9.1.3 Several women with high profile came under direct attack and either assassinated, kidnapped or injured during targeted attacks, however, no formal investigation has been launched to follow up their cases and find the perpetrators. Latest was assassination of Angeza Shinwari an MP from Nangarhar province who was severely injured and then killed, while no particular action is taken to arrest her murderers to date.</p>	Accepted	We will look to include in the next version – subject to any further developments in these cases being reported.
27	<p>(Avenues of redress) Following to the point 9.2.8, this point needs to be added:</p> <p>9.2.9 Due to lack of formal justice services, in many parts of Afghanistan, women spend their prison sentence time in the house of tribal elders. According to Reuters article dated October 11, 2016, due to lack of prison facilities for women in some provinces, tribal elders keep women as prisons or better say slaves. Some 850 women are imprisoned in official detention centers in Afghanistan for crimes ranging from murder to drugs and “moral crimes”, said Alim Kohistani, director of Afghanistan’s prison service. “There could be thousands of other women kept in unofficial places [such as houses of tribal elders] across the country in the absence of proper jails,” added Kohistani. The situation of women under tribal elders’ custody is explained by a local activist: “From sexual abuse to other forms of unjust and inhumane acts, these women become a tribal elder’s property,” said Zalmay Kharote, a rights activist working in Paktika. (referenced)</p>	Acknowledged	<p>Thank you for reference to the Himatyar article, published 11 October 2016.</p> <p>We will look to include this information in the next version, although it would be more appropriate to have it in a different section of the CPIN/CIG.</p>
28	<p>(Women’s shelters) Under point 10.2. following to the paragraph below sentence must be added.</p> <p>And in areas with limited or no prison and formal protection is available, women were sent to homes of tribal elders (See point 9.2.9) and in instance, battered women will spend a night or two at the provincial directorate of ministry of women’s affairs’ house until they find a place for her.</p>	Accepted	We are grateful for this information, some of which is based on the Reviewer’s personal experience. Will include in the next version.

B3: Afghanistan Sexual Orientation and gender identity

Home Office Response to IAGCI Review

Afghanistan: Sexual orientation and gender identity (February 2016)

7 November 2016

Summary

The Home Office would like to thank the reviewer for the positive overall assessment. It is disappointing that the reviewer qualifies this with 'despite the significant lack of reliable sources for citation and reference', particularly without then expanding on why/where the CIG/CPIN is deficient in this regard.

Although confusingly titled – given this review is not about COI Requests, rather the sexual orientation and gender identity CIG/CPIN – the first of the three specific 'suggestions relating to the COI Requests' (p3) has been noted. However, we do not agree this is relevant or necessary. It would only become so if: (a) the family member is also in the UK and (b) is either (i) dependant on the person's asylum/protection claim, or (ii) pursuing their own asylum/protection claim on this basis. This has therefore not been accepted.

The other two go far beyond the remit of the review and are unrelated to COI or the work of CPIT. These have therefore not been accepted.

Otherwise, the other main observation from the Home Office is that the reviewer makes excessive commentary on the wider formulation of Home Office policy/guidance. Whilst this is a topic discussed repeatedly with the IAGCI, in this instance the Home Office believes it particularly highlights the point made given it is unrelated to the (potential) use or assessment of country information. For example:

- p4 (discussing use of language analysis). The reviewer's comment is not relevant here. Language analysis is a tool that can be used to assess people's language/dialect for the purposes of origin verification – it is not about terms used within the CIG/CPIN;
- p4 (discussing particular social group). The reviewer appears to misunderstand the context of the term 'group'. The CIG/CPIN does not suggest LGBT persons live in groups; rather that LGBT persons in Afghanistan form a particular social group within the meaning of the Refugee Convention; or
- p8-9 (discussing internal relocation). The reviewer asserts that internal relocation is not applicable, but describes precisely the consideration a decision maker must make before reaching that conclusion.

The reviewer has also commented extensively on the current status (or otherwise) of the Upper Tribunal's country guidance determination in *AJ (Risk to Homosexuals) Afghanistan CG [2009] UKAIT 00001(5 January 2009)*. This may be more appropriate for the UT to respond to, but as is standard practice, we will look at all the available evidence and consider whether we consider there are very strong grounds supported by cogent evidence to depart from this case (either in full or in part).

We would also like to thank the Reviewer for additional source references in her footnotes. In line with recent discussions with the IAGCI, and the suggestion by the IAGCI panel, we have used "acknowledged" (rather than 'accepted'/'not accepted') in specific places where the suggested article(s) were published after the "cut-off date" for publication of the CIG/CPIN but are nevertheless potentially useful.

Review Conclusions/ Recommendations	Response	Home Office Comments
<p>29. 29.2.2 The report covers different aspect of the issues that are needed for understanding the LGBT persons and their life challenges within the context of Afghanistan. However, there are two areas that could also be explored or addressed to this part: (1) Safety of LGBT persons upon their arrival as an asylum seeker, who are kept within mixed refugee communities. (2) Given the complexity of the LGBT status within the Afghan context, it can be possible that for instance men identified as gay can have children and wife/ wives depending on them. Hence, a particular description on this needs to be added within the report in future. And finally, (3) The possibility or option for internal relocation which becomes highly risky, given the vulnerability of the persons belonging to LGBT community.</p>	<p>Not accepted</p>	<p>(1) The Home Office does implement measures to ensure the safety of vulnerable asylum seekers, but this is beyond the remit of the review and unrelated to COI or the work of CPIT.</p> <p>(2) It is noted (e.g. in para. 2.3.6) that getting married and having children is expected regardless of the person's sexuality or preferences.</p> <p>(3) We believe the CIG/ CPIN already gives adequate guidance to Decision Makers in assessing the option of internal relocation in specific cases. Whilst acknowledging the reviewer's expertise, this does appear to simply offer a differing view. The opinion of the reviewer will be considered alongside the wider evidence when we next review this CIG/ CPIN.</p>
<p>30. 2.3 Overall quality of the report is good. It could have been stronger using some lively example, by country experts who are aware of the life stories of some LGBT persons in the country. These examples will contribute to helping decision-makers in terms of understanding the depth of stigmatisation and trauma that often LGBT persons experience in their country of origin. Adding at least one story line, although it may make the report lengthy, will be helpful for those using this report to understand the depth of the issues that LGBT communities face in their position in the society etc ... The report is well-structured and information is accurate (except when it is mentioned in the comments below), update and balanced.</p>	<p>Partially accepted</p>	<p>We would consider including personal testimonies, where (a) their account is properly representative of the treatment experienced by the broad category of LGBT people in AFG; and (b) the information source is compatible with our criteria for reliability, objectivity, traceability, etc.</p>

31.	<p>2.1.3/2.3.1 In terms of language and terms used by the applicant, it is important to also note the specific wording used for LGBT in the country. For instance, for all different social and cultural reasons, LGBT is not a commonly used term to refer to sexual identities of persons within these categories in Afghanistan. There is also a high risk of mixing homosexuality with sexual abuse most of the time. For instance, Bacha Bazi (Pedophilia) is a term referring to adult men having sexual relations and sexual intercourse with minor boys. Hence, decision-makers need to be clear on these context-specific terms. Another example is related to expressions and appearances. For instance, two men walking on the street or posing for a photo holding hands with each other does not simply mean they are gay. It can mean they are close friends but not necessarily with sexual relations being involved.</p>	Accepted	<p>While the CIG already explains the term 'Bacha Bazi' (5.2.1), CPIT will consider the extent to which a more comprehensive description of terms and practices in Afghan society should be included when we update the CIG/CPIN.</p> <p>Further advice from the reviewer would be welcomed.</p> <p>The example cited (e.g. men holding hands) is included and reflected at para 2.3.7</p>
32.	<p>2.2 Guidance: Particular social group (PSG)</p> <p>Although, in this case, it must be noted so far there is no public evidence that LGBT communities live in Afghanistan in groups. This is due to severe stigmatization and also taboo as if anyone is identified with LGBT identity, he or she could be prosecuted severely by public and by the state based on Sharia and Afghan laws.</p>	Not accepted	<p>PSG is a legal definition and should not be taken to mean that LGBT people live in groups (see summary).</p>
33.	<p>2.3 Guidance: Assessment of risk</p> <p>LGBT as a form of identity is forbidden ... While carrying out this review, I checked with a number of Afghan networks in the diaspora to find out if there are known cases of asylum seeking on the basis of LGBT, and the answer was that there are none. This obviously does not mean such cases are not filed, but the fear of rejection and especially returning to, or being returned to, Afghanistan perhaps enforces applicants to keep their applications on this basis very hidden. Life for those who go public becomes impossible as in such cases it is not only the state but the society itself that is not ready to embrace and accept a person with LGBT identity.</p> <p>... It is also crucial that measures should be taken to protect the identity of the applicant from publicity even within the UK as the person will not be welcomed even within the Afghan diaspora communities should everyone know he or she is identified as one of LGBT.</p>	Partially accepted	<p>Decision Makers and other officials in the Home Office are obliged to protect the identity of applicants and to treat their asylum claims as confidential. This is a standing policy in the Home Office and it would not be included in CIGs/CPINs.</p>

34.	<p>The [BBC] article referred to below, which is most recent, provides first-hand details about life for female and male LGBT persons within Afghanistan and the threats that they face: http://www.bbc.com/news/world-asia-36884732</p>	Acknowledged	<p>Thank you for flagging up this useful article, which appeared after the CIG/CPIN was published.</p> <p>We will include this and, as is standard practice, consider it alongside other relevant material to determine the extent to which this is representative of the treatment experienced by the broad category of LGBT people in Afghanistan.</p>
35.	<p>The Review referred to para.2.3.4 of the CIG: <i>In the country guidance case of AJ (Risk to Homosexuals) Afghanistan CG [2009] UKAIT 00001(5 January 2009) the Tribunal held that:</i></p> <ul style="list-style-type: none"> • <i>Though homosexuality remains illegal in Afghanistan, the evidence of its prevalence especially in the Pashtun culture, contrasted with the absence of criminal convictions after the fall of the Taliban, demonstrates a lack of appetite by the Government to prosecute...</i> <p>Reviewing this part of the AJ (Risk to Homosexuality) report, there are some points that are invalid. For example:</p> <ul style="list-style-type: none"> - Homosexuality does exist in Afghanistan, perhaps in a different way than is understood and known in the West. People keep this private or within family most of the time. - It is highly important to make a distinction between homosexuality and pedophilia, which is described as Bacha Bazi in Afghanistan's different regions. - The point about 'prevalence of homosexuality in the Pashtun culture' is not valid, as the phenomena of sodomy or Bachabazi is common as much in the Northern region, where the majority of Tajiks and Uzbeks are living, as it is in the southern region where majority Pashtuns are living. - The views of Dr Shah cannot simply be accepted to represent evidence in Afghanistan, because despite the close border that the Pashto speaking part of Pakistan has with Afghanistan, the socio-economic and cultural as well as legal contexts led to two different directions in the two countries on the question of LGBT. For instance, the point about the Eunuchs (Hijara) communities is completely invalid in the Afghan case, while in Pakistan it is very common and each major city has a community of Eunuchs. (Point 4. in paragraph 17. of the above report). Additionally, Dr Sha's point on 'Koni' as a term used in Pashto poetry is completely invalid. Pashto poetry is rich in terms of love and romance and in instances referring to the beauty of the young boy. But there are hardly Pashto poems seen with using an offensive term such as 'Koni'. This rather is a term used as a form of swearing common in all local languages of Afghanistan. 	Partially accepted	<p>A determination in a Country Guidance case is authoritative, and decision makers and tribunal judges are required to take them into account, and to follow them unless very strong grounds supported by cogent evidence, are adduced justifying their not doing so.</p> <p>We respect the expertise of the reviewer and, alongside other relevant material, will determine the extent to which it is still correct to say that there has been an "absence of criminal convictions after the fall of the Taliban", as the Tribunal held.</p> <p>We also take the Reviewer's point on Pashtun culture.</p>

	<p>[continued...]</p> <p>- In light of above points, it is suggested to add the following paragraphs instead of the above mentioned paragraphs:</p> <p>"[...]Given the legal position concerning homosexuality, any open display of someone's homosexuality would be extremely dangerous. In seven years of frequent visits to Afghanistan I have never met any Afghan who would admit to being homosexual. The general opinion seems to be that homosexuality is a western phenomenon which does not exist in Afghanistan and that the few cases which do occur have to be punished harshly as a matter of Islamic law. In my opinion an openly gay man would be ostracised by society and would sooner or later come in conflict with the law. If convicted, the punishment would involve long imprisonment, perhaps even death.</p> <p>[...] In conclusion, homosexuality is an offence under Afghan law. There is evidence showing that there have been convictions for homosexual conduct, thus confirming that the offence does not only exist on "paper". In my opinion it would be quite impossible to be openly gay in Afghanistan because of societal disapproval and official prosecution." (Paragraph 21, points 13 and 14)</p>		
36.	<p>Re. para 2.3.6:</p> <p>Further reference to this point should be included as a footnote:</p> <p>How Afghanistan's mixed messages on homosexuality play into the Orlando (USA) shooting debate</p> <p>https://www.washingtonpost.com/news/worldviews/wp/2016/06/15/how-afghanistans-mixed-messages-on-homosexuality-play-into-the-orlando-shooting-debate/</p> <p>Afghanistan LGBT community living under threat of death</p> <p>http://www.bbc.com/news/world-asia-36884732</p>	Partially accepted	<p>We will consider the the Washington Post article of 15 June for the next version, but although it does include some useful COI, its focus is on the Orlando, Florida shooting.</p> <p>(The BBC reference is covered in 6. above.)</p>
37.	<p>Re para 2.3.7 (Societal treatment):</p> <p><i>[the CG case] of AJ (Risk to Homosexuals) the Tribuna/ found that...</i></p> <ul style="list-style-type: none"> • <i>Some conduct that would be seen in the West as a manifestation of homosexuality is not necessarily interpreted in such a way in Afghan society (Headnote point 2 and paragraph 57).</i> • <i>So far as non-state actors are concerned, a practising homosexual on return to Kabul who would not attract or seek to cause public outrage would not face a real risk of persecution (Headnote point 4 and paragraphs 58 and 61).</i> • <i>If some individual, or some gay lobby, tried to make a political point in public or otherwise behaved in a way such as to attract public outrage, then there might be a sharp response from the Government (Headnote point 5 and paragraph 54).</i> 	Partially accepted	<p>a. These findings of the Tribunal mainly related to societal attitudes, and were not dependent on the overall security situation.</p> <p>b. The DM must also take notice of para.2.3.1: <i>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...</i></p> <p>c. Re. the Farkhunda case – burning the Quran is in a very different category of offences.</p>

	<p>[continued...]</p> <ul style="list-style-type: none"> <i>The evidence shows that a considerable proportion of Afghan men may have had some homosexual experience without having a homosexual preference. A careful assessment of the credibility of a claim to be a practising homosexual and the extent of it is particularly important. The evaluation of an appellant's behaviour in the UK may well be significant (Headnote point 8 and paragraph 57).</i> <p>It is suggested that some of the above-mentioned points in the AJ case, are no longer valid for the following reasons:</p> <p>The AJ case assessment was valid for 2009, and between 2009 – 2016 the security situation has deteriorated severely across Afghanistan (referenced)</p> <p>The Case of Farkhunda's killing in public and in the presence of police is a good example of what could happen to someone who is accused of violations whether or not there is any evidence (referenced)</p> <p>Nemat Sadaat was an American University Professor who went only public in social media about his identity as being gay and he had to leave the country within hours or else face prosecution (referenced)</p> <p>The key point for those asylum seekers on the basis of their sexual identity is that once they have publicly declared their identity, it is highly risky for them to reintegrate in the society.</p>		<p>d. We were unable to access the article on Nemat Sadaat, but will look for an alternative source when we update the CIG/CPIN.</p> <p>e. Whilst acknowledging the reviewer's expertise, this does appear to be their opinion.</p> <p>However, as is standard practice when updating CIGs/CPINs, we will assess this alongside the wider evidence.</p>
38.	<p><i>2.3.9 For the position of women in society in general, see the Country Information and Guidance Afghanistan: Women fearing gender-based harm and violence.</i></p> <p>Given that this above report may also be reviewed, the link should be connected to the reviewed version dated for October 2016.</p>	Acknowledged	<p>Thank you for the reminder. However, the link in the CIG/CPIN is not to the specific document, but to the webpage (where the latest version would appear).</p>
39.	<p>2.5 Guidance: Internal relocation</p> <p><i>2.5.1 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 (see also the Country Information and Guidance Afghanistan: Security and humanitarian situation).</i></p> <p>In my opinion, the chances for internal relocation within Afghanistan for the LGBT persons, once their claim is approved and verified, is out of question, as their sexual orientation and identity is neither accepted by the society nor by the state. If the person has not been identified as LGBT, then the nature of the case could be different.</p>	Not accepted	<p>The instruction in para. 2.5.1 is part of the wider asylum decision making process (see summary).</p>

40.	<p><i>2.5.3 With regard to those in fear of non state actors, the Tribunal held in AJ (Risk to Homosexuals) Afghanistan CG [2009] UKAIT 00001 that:</i></p> <ul style="list-style-type: none"> • A homosexual may be relatively safe in a big city (especially Kabul) and it would take cogent evidence in a particular case to demonstrate otherwise. The position in smaller towns and in rural areas could be different and will depend on the evidence in a specific case (Headnote point 6 and paragraphs 61 and 62). • Relocation to Kabul is generally a viable option for homosexuals who have experienced problems elsewhere, though individual factors will have to be taken into account (Headnote point 7 and paragraph 62). <p>To reiterate the earlier point, the situation of some of the contextual circumstances has changed or has deteriorated since the Risk to Homosexuals report was written in 2009. Kabul has proved not to be safe for people who have expressed and announced their sexual identity. One significant example is Nemat Sadat, a young gay professor at AUAF (American University of Afghanistan).</p> <p>In sum, Afghanistan's political instability, overall insecurity and increase in mob-violence – the most known case of which being Farkhunda's lynching in downtown Kabul – confirms that the situation could easily go out of control if there is a person who is at risk of being publicly prosecuted or lynched publicly. Hence, to avoid such catastrophes it is not recommended to return applicants whose asylum claims are on the basis of their sexual orientation.</p>	Partially accepted	<p>As discussed under 9. and 11. above.</p> <p>Whilst acknowledging the reviewer's expertise, this does appear to be their opinion. However, as is standard practice when updating CIGs/ CPINs, we will assess this alongside the wider evidence.</p>
41.	<p><i>2.5.4 It has been noted that persons convicted of homosexuality in cities are generally sentenced to prison (rather than subject to Sharia law in rural areas)</i></p> <p>In this paragraph, it is suggested that persons is replaced by men, as often the arrested persons are men. There are cases of Zena (Adultery between men and women) for women, but it is not commonly known that women are imprisoned for being homosexual or lesbian so far. AJ (Risk to Homosexuals in Afghanistan CG [2009] UKAIT 00001 Paragraph 28.).</p> <p>LH: What then is likely to happen to women who are found to be homosexual or lesbian?</p>	Accepted	<p>We will reflect this when we update this CIG/ CPIN.</p>
42.	<p><i>2.5.7 For further guidance on considering internal relocation, see section 8.2 of the Asylum Instruction on Assessing Credibility and Refugee Status.</i></p> <p>This point in the above document does not cover particular circumstances of persons with sexual identities such as LGBT and it only refers to gender-specific cases which may only cover women. It has to be mentioned that gay men are in a vulnerable position to be relocated internally particularly if their cases become known publicly.</p>	Partially accepted	<p>The decision maker must still give attention to the instruction referred to. However, we will also add a cross-reference to the instruction on 'Sexual orientation in asylum claims'</p>

43.	<p>3. Policy summary</p> <p><i>3.1.2 The courts have held that some conduct that would be seen in the West as a manifestation of homosexuality is not necessarily interpreted in such a way in Afghan society. The evidence shows that many Afghan men, particularly from the Pashtun belt, may have had some homosexual experience without having a homosexual preference. A careful assessment of the credibility of a claim to be a practicing homosexual is particularly important.</i></p> <p>In this point, reference on essentializing the experience of homosexuality to one particular ethnic group (Pashtuns) is not relevant. The assertion that this form of homosexuality is 'particularly from the Pashtun belt' is irrelevant due to the fact that homosexuality is experienced by men also in northern Afghanistan where Tajik and Uzbek ethnicities reside as majority</p>	Accepted	The phrase 'particularly from the Pashtun belt' will be deleted when we update this CIG/CPIN.
44.	<p><i>3.1.3 An openly LGBT person in Afghanistan is likely to face adverse attention from society in general; family rejection including being at risk from an "honour" killing. They may also be unable to access health services and could be fired from their jobs on the basis of their sexual orientation. However, in respect of non-state actors, a practicing gay man who, on return to Kabul, would not attract or seek to cause public outrage, would not face a real risk of persecution.</i></p> <p>If the LGBT person is female or is a man with what may be seen as a feminine character, life is not secure and safe</p>	Accepted	The second sentence will be amended when we update this CIG/CPIN.
45.	<p>4. Legal context</p> <p>The legal context is very comprehensive and fully referenced. I do not have particular comment on this part.</p>	Acknowledged	Thank you for the positive comment.
46.	<p>5. Position in Afghan society: Gay men</p> <p>5.2.1 On June 2016 Omar Mateen, a US citizen born to parents who migrated from Afghanistan in 1980s have opened fire shooting at a Gay nightclub in Orlando, Florida killing at least 49 people and injuring dozens before he was shot dead by the police. The reaction from Mateen's father to the event was as follows...</p>	Not accepted	We do not feel this adds anything substantive to information on treatment of LGBT people within Afghanistan.
47.	<p>5.2.4 Nemat Sadat, an Afghan born in Kabul, moved to the US and wrote a piece for Out Magazine on 21 February 2014. He stated 'My coming out launched a hurricane upon my landlocked country of origin where homosexuality can be penalized with the death penalty....I received thousands of death threats from angry Afghans who were flabbergasted about my insistence that I'm both a proud homosexual and a Muslim.'</p> <p>Further reference to information about Nemat Sadat is recommended:</p> <p>"Despite Death Threats A Gay Leader Emerges In Afghanistan": http://www.corcoranproductions.com/despite-death-threats-a-gay-leader-emerges-in-afghanistan/</p>	Partially accepted	We will need to consider to what extent Nemat's experience might be generally representative.

48.	<p>5.3 Position in Afghan society: Lesbians</p> <p>It is recommended to add the following point to 5.3.</p> <p>On October 7, 2016 BBC World Asia Desk produced a brief interview with Afghan LGBTs that was filed inside the country. The film does not show the women faces, but it confirms the fact that Lesbian Afghans have presence in Afghanistan, despite enormous challenges and that at least one was ready to speak out to a journalist about her feelings towards another woman (referenced)</p>	Acknowledged	See 6 (above).
49.	<p>5.4 Position in Afghan society: Transgender and transsexual persons</p> <p><i>5.4.1 An article published in February 2008 in the Seattle Times referred to the important role that eunuchs and cross-dressers have traditionally played in the culture of Pashtuns, cited as the main ethnic group in Pakistan's northern tribal areas and in the southern half of Afghanistan.</i></p> <p>This article above is analyzed somehow out of context. As the article is not about the 'importance of eunuchs in the 'Pashtoon culture' but rather about a first attempt by a person with eunuch identity to run for a political position. Given the higher population of Pakistan, eunuch communities have a visible presence not only in KPK but across all main states of Pakistan. For instance, in Karachi, their activism led to add a third gender choice in the National ID card in addition to male and female</p>	Not accepted	<p>The context does not make the quoted information inaccurate.</p> <p>The article explicitly uses that phrase. Also, the opening line of the second paragraph expressly states that the person is not running for office.</p>
50.	<p><i>5.4.1 (cont.) According to an April 2002 report in the Los Angeles Times on homosexuality in Afghanistan, many Pashtun men wear kohl pencil, henna their nails and wear "high-heeled sandals."</i></p> <p>Again, the writer expressed a particular interest to keep bringing the Pashtun men's or Pashtun ethnicity into play. There is enough evidence that homosexuality exists across Afghanistan regardless of ethnicity, geography and people's tribal identities. When it comes to looking at this phenomenon, the fear of highlighting homosexuality among one group is that those victimized as homosexuals in other parts of Afghanistan will be ignored and sub-ordinated. So it is suggested to omit and rephrase these points differently.</p>	Not accepted	While this sentence refers to Pashtun culture, other sentences in section 5.4 are more generalised.
51.	<p>5.4. Here's a suggested point:</p> <p>Transgender persons also known as eunuchs often are victims of abuse and dance in the male only wedding ceremonies. Unlike Pakistan, in Afghanistan they are not living in a particular community. The position of transgender persons could be exemplified by video that is shared through YouTube showing the arrest of two persons, one of whom is forced to strip off in front of the camera.</p>	Accepted	The first sentence is helpful. We will try to locate a transcript of the video, so that it can be referred to in the next update.

52.	<p>6. Civil society organisations</p> <p>An additional point could be added under this section:</p> <p>7.1.3 Despite the fact that so far no organisation among NGOs is openly and publicly providing support to LGBT community, if persons belong to this community, particularly women, contact organisations working on women's health and protection, they receive such services. Often the sexual orientation and identity of the person is kept confidential within the organisation to protect both the person as well as the organisation from public reactions (referenced).</p>	Accepted	Thank you for this advice.
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B4: Sudan Country of Origin Information requests

Home Office Response to IAGCI Review

Sudan: Country of Origin Information Requests (COIRs)

7 November 2016

Summary

The Home Office would like to thank the reviewer for the largely positive overall assessment (that the 'accurate, current, balanced, reliable and representative of the COI available at the time of publication').

In terms of the two main comments/recommendations – to address questions one-by-one, and that COIRs did not always include material that was available – we accept that addressing (sub-)questions individually is likely to improve how we present information though may not always be logical or achievable. Whereas, as has been discussed with the IAGCI, our responses are sometimes drafted with very short deadlines, as a result tend not to be as polished as our other products. However, they provide the general context and information to enable a decision maker to consider the case at hand.

Review Conclusions/ Recommendations	Response	Home Office Comments
<p>53. Coptic Christians (05/14-116), 22 May 2014 Treatment of Coptic Christians</p> <p>It is considered that this COI Request is factually accurate and representative of the COI available at the time of publication (22 May 2014). All the sources in the COI Request are presented under one topic, 'Treatment of Coptic Christians'. It is considered that it would be more user-friendly to have presented the COI to clearly differentiate the treatment between born Coptic Christians and those that convert and between state and societal treatment. That is, on the following sub-topics:</p> <ul style="list-style-type: none"> • State treatment of Coptic Christians; • Societal treatment of Coptic Christians; • Legal provisions relating to apostasy and implementation and other State treatment of Coptic Christian converts, • Societal treatment of Coptic Christian converts. <p>It is considered that the COI Request should have made clear that the excerpt from the Al Jazeera 'article' is actually blog.</p>	Accepted	<p>Thank you for the overall assessment.</p> <p>We will endeavour to ensure that COI responses are clear and user-friendly as far as time constraints allow.</p>
<p>54. Justice and Equality Movement (07/14-170), 30 July 2014</p> <p>The typical size of JEM cells operational in Sudan; The cost of membership of JEM for members in Sudan?; Are JEM UK now issuing ID cards to members, and if so when did they begin to do so?</p> <p>The COI Request indicated that the then CPIT was unable to find information in the public domain on the typical size of JEM cells operational in Sudan or the cost of membership of JEM for members in Sudan. Whilst no such specific information appears to be available, it may have been useful to indicate the number of JEM fighters in Sudan, which can be found for example here:</p> <ul style="list-style-type: none"> ➤ Small Arms Survey, Justice and Equality Movement (JEM) (AKA JEM-Jibrii), August 2013 and <p>[...] In mid-2010, before a government offensive that led to heavy casualties on both sides, JEM was estimated to have more than 5,000 men armed with mounted anti-aircraft guns, rocket-propelled grenades, heavy machine guns, AK-47s, several hundred vehicles (possibly as many as 1,000, according to one informed source), and at least two tanks, seized from the government. To this day, and despite splits in the movement, JEM remains the strongest and most cohesive military force in Darfur. [...]</p> <ul style="list-style-type: none"> ➤ Al Jazeera, Who are Sudan's Jem rebels? 5 May 2010. <p>[...] The Justice and Equality Movement (Jem) is the most powerful anti-government faction involved in the conflict in Sudan's western Darfur region.</p>	Partially accepted	<p>We agree further context about JEM in Sudan can be useful, if appropriately qualified. However, in this instance, we do not consider including the very broad data about JEM's size in Sudan (varying significantly from 5000 to 35,000) means the response was ineffective.</p> <p>In addition, we do not consider the information about JEM issuing ID cards in Africa is helpful in this instance. JEM-UK may be a distinct splinter group from the group operating from the 'North Africa Office' and we have no way of assessing how this relates to the UK. Also the fragility of the sourcing – a single blog – and its age (Feb 2012) makes us cautious about using this information. We do provide information from a source in the UK, which we consider more up to date and relevant.</p>

	<p>Jem leaders claim they have as many as 35,000 well-armed fighters in the region that borders Chad. [...]</p> <p>On the question of whether JEM UK are issuing ID cards to members and if so when did they begin to do so, CPIT provides information it received by email from the NGO Waging Peace. The COI Request indicates that they stated that in 2012, “JEM identity cards were introduced”, but it is not clear from this response whether they are answering with respect to when JEM UK ID cards were introduced. There is information available in the public domain at the time of the publication of the COI Request (30 July 2014) that the North Africa Office of JEM was issuing ID cards as early as 2009:</p> <ul style="list-style-type: none"> ➤ Translating Fazzan (and Kufra) (blog), Evidence of Presence of Chadian Mercenaries, 22 February 2012 (Please note that this is a blog and we have not asked for permission to reproduce its content. Should this report be made public it might be advisable to remove this source or to ask the owner for permission to reproduce its content for safety reasons.) <p>It is interesting to note that for this particular COI response, an external organisation was consulted for additional information. It would be useful to know on what basis this organisation was approached, whether other experts were contacted and whether it is a general practice to consult external country experts/organisations when no or limited information is found in the public domain.</p>		<p>CPIT occasionally meets and has discussions with NGO stakeholders on general as well as specific issues. We contacted WP in this instance because of a lack of public information and their general credibility as a source with links to the Sudan community in the UK.</p> <p>No other experts were contacted directly.</p> <p>In general, where we are unable to obtain information in a country of origin we will approach the Foreign Office to obtain information on our behalf. We would (and do) sometimes contact external organisations to fill information gaps, but this is a delicate balancing exercise – especially when dealing with time-sensitive COIRs.</p>
55.	<p>Languages – Zaghawa tribe, non-Arab Darfuri (08/14-086), 29 August 2014</p> <p>The specific question(s) raised with the COI researcher has not been included in this request. It is therefore not possible to assess precisely whether all the elements of the questions have been addressed.</p> <p>The COI Request provides links to two reports by Dr Suleiman Norein Osman, but unfortunately neither are active, nor are the links to his CV or the King Saud University faculty page.</p> <p>An active link was not found for the following report:</p> <ul style="list-style-type: none"> ➤ Dr Suleiman Norein Osman, <i>Phonology of Zaghawa Language in Sudan</i>, 2004 <p>The other report is currently available at:</p> <ul style="list-style-type: none"> ➤ Dr Suleiman Norein Osman, Proverbs and Idiomatic Phrases in Zaghawa Language, 2006 <p>His CV is available at the following link: http://faculty.mu.edu.sa/download.php?fid=9118</p>	Accepted	<p>Thank you for the additional sources suggested, which we will use in future queries.</p> <p>Also, in line with previous discussions with the IAGCI, we will link the reviewer’s comments to this response.</p>

56.	<p>Massalit (04/15-041), 14 April 2015</p> <p>Who is the current leader of the Massalit tribe in Sudan? (The information in COIS is undated but circa 06/07 and my applicant has advised of a different name); What other tribes are the Massalit permitted to marry? Are there any tribes that the Massalit don't marry? Is Massalit a written language? What style (material) of house do the Massalit live in? Who is responsible for building the house? (men, women or both) When did Wali Haider Galikoma Ateem become governor (wali) of West Darfur and who preceded him in that role? What tribe does Wali Haider Galikoma Ateem belong to? Is there a camp in El Geneina named/located in Fardows or Ferdous?</p> <p>In general the COI Request does provide accurate COI, however for several of the specific queries the then CPIT was unable to find relevant information that is readily available in the public domain at the time of publication of the COI Request (14 April 2015):</p>	Partially accepted.	<p>The COI request was extremely detailed, with a limited time frame for response.</p> <p>We agree that some available information (albeit quite old in part) found by the IAGCI reviewer which would be useful to include and, in line with previous discussions with the IAGCI, we will link the reviewer's comments to this response</p>
57.	<p>Conflict in South Kordofan/Blue Nile states (06/15-044), 11 June 2015</p> <p><i>A COI response prepared on the current conflict in South Kordofan (post 2012)</i></p> <p>The general information included, informing about the security situation in South Kordofan is relevant, balanced and accurate. However, it provides only a very narrow view on the current situation in South Kordofan at the time of writing, leaving out important information on the impact the conflict is having on the humanitarian situation and the degree of human rights violations being committed by all sides to the conflict. Also, only the last two paragraphs, 6 and 7, touch upon the specific situation for people from the Nuba mountains and the impact the conflict is having on them. It is not clear from the general question included at the top of the COI Request whether such information was requested in some other format. If so, then more specific COI on the particular targeting of the Nuba should have been included.</p> <p>Generally, it is recommended that information presented be ordered chronologically to increase user-friendliness. In addition, for ease of reference and transparency it is recommended that the footnotes contain the relevant page number(s) and/or section headings, where applicable.</p> <p>The hyperlink provided in footnote 1 to the U.S. Department of State annual report is not the one linking directly to the 2013 annual human rights report:</p> <p>¹ US State Department, Country Reports on Human Rights Practices for 2013, Sudan, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper, accessed 11 June 2015</p> <p>Instead it links to the 'Secretary's Preface' for the 'Country Reports on Human Rights Practices for 2015'. To ease access and user-friendliness it is recommended that the direct link to the report be provided as follows:</p> <p>http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dldid=220164</p>	Accepted	<p>We accept that information is better presented chronologically for clarity and ease of use.</p> <p>The number of sources we can provide within a short time limit is necessarily limited.</p> <p>We accept that hyperlinks must link to the relevant report.</p> <p>We will provide para / page / section numbers where available.</p> <p>We accept that it is good practice to clarify sources which are subscription only, and to offer them on request.</p>

<p>Additional information found in the original source, the U.S. Department of State annual report covering events during 2012, included in paragraph 1 should have been included which document the killing of civilians as follows:</p> <ul style="list-style-type: none"> ➤ US Department of State, Country Reports on Human Rights Practices for 2013: Sudan, 27 February 2014 [...] g. Use of Excessive Force and Other Abuses in Internal Conflicts [...] The Two Areas and Abyei [...] In Darfur and the Two Areas, government forces and government-aligned militias killed civilians, including by repeated aerial bombardment of civilian areas. Ground attacks often followed aerial bombardments. Rebel forces also killed civilians during attacks. Attacks resulted in civilian displacement [...] <p>Moreover, the request would have benefitted from information about the human rights abuses committed by all sides to the conflict, which was available in the original source as follows:</p> <ul style="list-style-type: none"> ➤ US Department of State, Country Reports on Human Rights Practices for 2013: Sudan, 27 February 2014 [...] g. Use of Excessive Force and Other Abuses in Internal Conflicts [...] The Two Areas [...] SAF air raids resulted in civilian deaths throughout Southern Kordofan and Blue Nile. On September 6, an air raid on the Sombok Friday market killed at least 30 civilians and injured several others. An estimated 975 persons were killed during the year. SPLM/N's Blue Nile Humanitarian Coordination Office reported on April 10, an air raid on the villages of Gerdan, Ura, Chali, and Mayak Babras in Blue Nile killed at least five civilians. Those killed were primarily women and children; three others were injured in the raids. On June 14, the SPLM/N shelled Kadugli town, killing two civilians and one UNISFA peacekeeper, while wounding two UNISFA peacekeepers. Abductions: On August 26, an unknown militia group abducted eight International Committee of the Red Cross (ICRC) staff members. On August 27, six of the members were released. On September 8, the two drivers were released, but the two ICRC trucks were not returned. 		
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	<p>On March 24, the rebel group SLA/AW kidnapped 31 IDPs traveling in the Darfur region from Zalingei to Nyala to attend a conference of IDPs and refugees. SLA/AW released the IDPs unharmed on March 30.</p> <p>In August 2012 unidentified militia members abducted two Jordanian UNAMID peacekeepers in Kabkabiya, North Darfur. On January 2, the militias released the two peacekeepers to the NISS, who transferred them to the UN. The government stated it continued to investigate, but by year's end the perpetrators remained at large.</p> <p>International organizations were unable independently to verify reports of disappearances due to lack of access to the region.</p> <p>Physical Abuse, Punishment, and Torture: All parties to the conflict in Darfur, the Two Areas, and Abyei were accused of perpetrating torture and other abuse. The government abused persons detained after armed conflict as well as IDPs suspected of having links to rebel groups. There were continuing reports that government security forces, progovernment and antigovernment militias, and other armed persons raped women and children. [...]</p> <p>SAF and government-aligned forces reportedly burned and looted villages throughout Southern Kordofan and Blue Nile. [...]</p> <p>In addition, the same source provided information on the humanitarian situation, i.e. the situation and treatment of IDPs, which would have been useful to have included as well in a COI Request on the security situation, as follows:</p> <ul style="list-style-type: none"> ➤ US Department of State, Country Reports on Human Rights Practices for 2013: Sudan, 27 February 2014 [...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons [...] <p>Internally Displaced Persons (IDPs) [...]</p> <p>Large-scale displacement continued to be a severe problem. [...]</p> <p>In Blue Nile and Southern Kordofan, there were 178,000 and 557,000 IDPs, respectively. More than 40,000 persons from Abyei remained displaced in South Sudan and southern Abyei, the region between Abyei and South Sudan. [...]</p>		
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	<p>There were numerous reports of abuse committed by security forces, rebels, and militias against IDPs, including rapes and beatings. Abuse of IDPs by government forces and government backed-militias in the Southern Kordofan conflict was reported. [...]</p> <p>In Southern Kordofan and Blue Nile, the UN estimated there were more than one million displaced and otherwise conflict-affected persons.</p> <p>Annual reports for 2012 (USSD), 2014 (Amnesty International) and 2015 (Freedom House) have been included. It seems information covering the year 2013 has been left out despite the sources included in this request publishing such a report.</p> <p>Information provided at paragraphs 4 and 5 by Jane's Sentinel Security could not be assessed as it can only be accessed on a subscription basis. It would have been useful if this would have been made clear in the respective footnotes, including a sentence that upon request this could be shared with the decision-maker [this is a welcomed practice being observed in more recent CIGs].</p>		
58.	<p><i>Sudanese refugees in Israel (06/15-058), 16 June 2015</i></p> <p>What is the position of returnees to Sudan from Israel? In particular if they have submitted a claim for asylum; What is the general relationship between Israel and Sudan? Does the Sudanese passport have any proscription against entering Israel or it not being valid to travel to Israel? Is there evidence of Israel returning failed asylum seekers or illegal immigrants to Sudan?</p> <p>Four specific questions are posed, but the COI Request does not directly address each of these. Whilst it does specifically addresses the 'Relationship between Sudan and Israel'; 'Israel's relationship with South Sudan' and 'Sudan passports and Israel' it presents information under the more general topic 'Israel and Sudanese asylum seekers'. It is therefore not very user friendly for those interested specifically in the position of returnees to Sudan from Israel or evidence of returns of failed asylum seekers to Sudan.</p> <p>Furthermore, the general topic of 'Israel and Sudanese asylum seekers' focuses more on Israel's treatment of Sudanese asylum seekers in Israel, and no information is provided on the actual position or treatment of Sudan asylum seekers on return to Sudan, which is the specific question posed in the COI Request. This is despite there being a body of evidence in the public domain on the Sudanese authorities' treatment specifically of deportees from Israel available at the time of publication of the COI Request (16 June 2015). Indeed, the following illustrative excerpts are from sources cited elsewhere in the same COI Request:</p> <ul style="list-style-type: none"> ➤ Human Rights Watch, "Make Their Lives Miserable": Israel's Coercion of Eritrean and Sudanese Asylum Seekers to Leave Israel, 9 September 2014 	Accepted	<p>We accept that the presentation can be improved and further information was available at the time.</p> <p>This issued will be covered in the CIG/CPINs on 'failed asylum seekers', 'opposition to the government' and 'sur place activities', which replace this response.</p>

<p><i>Nationality law in Sudan (04/16-043), 20 April 2016</i></p> <p>What are the rules surrounding acquiring Sudanese citizenship by naturalisation? Who do you apply to in Sudan for citizenship by naturalisation? Can Syrian nationals freely enter Sudan with no visa/valid leave?</p> <p>It is considered that it would aid user-friendliness if the three distinct questions of the COI Request were dealt with directly in turn. The COI Request presents information under broad two headings 'Naturalization' and 'Entry requirements'. The 'Naturalization' section presents the relevant legislative instruments, but no reference is provided for the '2. The Sudanese Nationality Act (Amendment) 2011'. UNHCR provides an English translation for example:</p> <p>The Sudanese Nationality Act 1994 and Sudanese Nationality Act (Amendment) 2011 [Sudan], 10 August 2011</p> <p>Whilst Sudan's 1994 Nationality Act sets out that "The Minister may grant Sudanese nationality by naturalization", the COI Request does not provide any information on who you make such an application to as per the second question posed. It is considered that it would have been useful to detail the relevant Ministry in Sudan to apply to and to provide contact details thereof, and that applications can also be made to the Sudan Embassy in the UK [the reviewer suggests sources].</p> <p>The 'Entry requirements' section of the COI Request provides general information on entry visas required for tourists and business. However, no specific information is included on the particular question raised of whether Syrian nationals are able to enter Sudan without visas. The following COI available at the time of publication of the COI Request (20 April 2016) addresses this point:</p> <p>U.S. Department of State, Country Report on Human Rights Practices 2015 - Sudan, 13 April 2016 and Al Jazeera, 'At least we are treated as humans': Syrians in Sudan, 7 December 2015.</p>	<p>Accepted</p>	<p>We will review the structure and update the content of the response.</p> <p>In the meantime, in line with previous discussions with the IAGCI, we will link the reviewer's comments to this response.</p>
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B5: Sudan Failed Asylum Seekers

Home Office Response to IAGCI Review

Sudan: Failed Asylum Seekers (August 2016)

7 November 2016

Summary

The Home Office would like to thank the reviewer for the largely positive overall assessment (that the 'COI included [...] is relevant, reliable, balanced and up-to-date' and that the specific recommendations though sensible (and which we have accepted) are largely minor and do not point to any substantial deficiencies in the CIG/CPIN.

We also agree with the reviewer's comments about the difficulties in obtaining information about Sudan from within the country, particularly given the lack of access to the country for human rights organisations such as Amnesty and HRW. This is also relevant regarding the suggestion for inclusion of updated annual reports which, whilst acknowledged, are only of partial value given they provide only general observations on the human rights situation and, in some cases, do so with the limitations that come with this lack of access.

We would also like to thank the Reviewer for the suggested additional material. In line with recent discussions with the IAGCI, and the suggestion by the IAGCI panel, we have used "acknowledged" (rather than 'accepted'/'not accepted') in specific places where the suggested article(s) were published after the "cut-off date" for publication of the CIG/CPIN but are nevertheless potentially useful.

1.	<p><u>Section 3.1 Sudan: Failed asylum seekers (August 2016)</u></p> <p><u>General observations</u></p> <p>1. For ease of reference and improved transparency it is recommended that the footnotes contain the relevant page number(s) and/or section headings, where applicable. For example, in the below case the information is taken from Table 12 on page 76 of the source referenced in footnote 3:</p> <p>4. Commission of Refugees / National Intelligence and Security Services [...]</p> <p>4.1.2 A report from International Organisation for Migration (IOM), dated 2011, listed the responsibilities of the Ministry of Interior's Commission of Refugees (COR):</p> <p>'Protecting, registering, counselling and providing material assistance and documents to foreign refugees at different administrative stages and all along their staying in the country. [...] ... Scrutinizing the requests of asylum in coordination with UNHCR [...] ... Management of refugees camps. [...] ... Undertaking or supporting awareness and information campaigns in coordination with other national and international institutions. [...] ... Following-up on the situation of Sudanese refugees abroad according to existing regulations. [...] ... Data collection, compilation of statistical reports studies on refugees.'³ [...]</p> <p>3 IOM, Migration in Sudan: A Country Profile 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/D2ECC0D6226DF41DC1257842003973F1-Full_Report.pdf Date accessed: 19 June 2015</p>	Accepted	<p>The Home Office takes the view that it is not completely fatal to not do so.</p> <p>Nevertheless, we acknowledge that, for the sake of increased transparency/ traceability, this is good practice and we will endeavour to do so in future updates of both this CIG/CPIN and more generally (and we do do this in other CIG/ CPINs already).</p>
2.	<p>The hyperlink provided in footnote 10 to the U.S. Department of State annual report is not to the Sudan chapter of the 2015 annual human rights report:</p> <p>10 US State Department, 2015 Human Rights Report, Sudan, Section 1d, , http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper. Date accessed: 27 June 2015</p> <p>Instead it links to the 'Secretary's Preface' for the 'Country Reports on Human Rights Practices for 2015'. To ease access and user-friendliness it is recommended that the direct (and permanent) link to the report be provided as follows:</p> <p>10 US State Department, 2015 Human Rights Report, Sudan, Section 1d, http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2015&dliid=252733. Date accessed: 18 October 2016</p>	Accepted	
3.	<p>It has been noted that the presentation of some information suggests that only excerpts have been included from that source when in fact the whole text has been cited in the CIG. To exemplify, in paragraph 4.1.6 the use of ellipses suggests that additional text from the original source has not been included:</p> <p>However, in reality the full text has been included from the original source.</p>	Accepted	

4.	<p>It should be noted that certain sources included in this CIG could not be reviewed as its content was either not available in the public domain or not available in English. For example the report by Landinfo, Sudan: Scope of political activity critical to the regime, of 11 November 2013. However, the footnote usefully noted that the English translation could be made available upon request. Perhaps in future these could be automatically shared with the IAGCI reviewer?</p>	Not accepted	<p>We will, as the footnote suggests, make it available on request. The Home Office is not notified of who the successful reviewer is, so cannot do this 'automatically'.</p>
5.	<p><u>Case law</u></p> <p>It is recommended that not only the promulgation date but also the hearing date of country guidance (CG) determinations be included in the CIG. This would allow decision-makers and COI researchers alike to target their case-specific research and research requests post-hearing for COI that was not considered in the case.</p> <p>For example, the most recent CG case on Sudan, IM and AI (Risks - membership of Beja Tribe, Beja Congress and JEM : Sudan) (CG) [2016] UKUT 188 (IAC) (14 April 2016) was promulgated on 14th April 2016, but the actual hearing took place on 4th November 2015, meaning that updated COI should be sought from the earlier date.</p>	Accepted	<p>We are increasingly providing this information in our products.</p> <p>However, they aim to cover the last 18months or 2 years, or longer where relevant, so we do not think the hearing date will necessarily have a bearing on the COI content of a CIG/CPIN, and therefore our assessment of evidence in the guidance.</p>
6.	<p><u>4. Commission of Refugees/National Intelligence and Security Services</u></p> <p>The source mentioned in footnote 8 as part of the information included in paragraph 4.1.5 is incorrectly referenced and a wrong hyperlink is provided:</p> <p>4.1.5 Sources consistently highlighted NISS as responsible for significant human rights violations in Sudan. The British Embassy letter dated 19 February 2015 explained:</p> <p>'Allegations of mistreatment amounting to cruel and inhumane treatment or torture by NISS are a matter of public record. ... Without prejudice to comments above about allegations of mistreatment attributed to NISS, it is important to note that such detentions are an extremely common occurrence and it should not be assumed that everyone detained would be subject to same sort of treatment. The treatment received could be determined by a number of factors including, but not limited to: the nature of the accusations; public and international profile; age; family connections; and, ethnic background.'⁸</p> <p>⁸ British Embassy in Khartoum, Deputy Head of Mission, 19 February 2015, Annex A</p> <p>Instead the footnote should read: British Embassy in Khartoum, Deputy Head of Mission, 19 February 2015, copy available in annex to country information and guidance on sur place activity.</p> <p>It is further proposed that this particular letter written by the British Embassy in Khartoum in February 2015 to update on the situation of failed asylum seekers in Sudan be also attached as an Annex to this specific CIG on failed asylum seekers. In addition, letters mentioned in footnotes 22 -28 and referenced to the August 2016 CIG on 'Sudan: 'Sur place' activity in the UK' should also be attached in an Annex to this particular CIG</p>	Accepted	<p>This will be amended in the next update of this CIG/CPIN.</p>

7.	<p><u>5. Treatment of returnees</u></p> <p>The hyperlink provided in footnote 11 to the 2006 UNHCR guidelines is incorrect:</p> <p>11 UNHCR Position on Sudanese asylum-seekers from Darfur, February 2006, http://www.refworld.org/mwg-internal/de5fs23hu73ds/progress?id=FcfJyGtjnK. Date accessed: 26 June 2015</p> <p>Instead it should be as follows: http://www.refworld.org/docid/43f5dea84.html</p>	Accepted	This will be corrected when we update this CIG/CPIN.
8.	<p>Information included in paragraph 5.1.4 from the 2012 Waging Peace report is incomplete:</p> <p>5.1.4 In their 2012 and 2014 reports, the UK NGO Waging Peace published testimonies of failed asylum seekers who claimed they had been harassed and mistreated on return to Khartoum. The 2012 report included the cases of Mr M, Mr A and Badaoui Malik Badaoui. All of these people claimed to be from conflict areas and/or affiliated to opposition or rebel groups.</p> <p>The 2012 report by Waging Peace actually also included three additional testimonies by Mr Y, Mr X and Mr Magdy El Baghdady, the latter who is mentioned in the subsequent paragraph 5.1.6. By not referring to these additional individuals and not mentioning their experiences of harassment and mistreatment in prison upon their return to Sudan, the testimonies collected by Waging Pace are incompletely represented in this CIG and reflect a sense of selectivity on behalf of the author of this CIG. The CIG further fails to include important information from the 2014 updated report by Waging Peace to its previous report, published in 2012, as follows:</p> <ul style="list-style-type: none"> Waging Peace, <u><i>The Long Arm of the Sudanese Regime: How the Sudanese National Intelligence and Security Service monitors and threatens Sudanese nationals who leave Sudan</i></u>, September 2014 <p>[...] Introduction [...]</p> <p>Compiled over the last year and a half, this research provides a new assessment of the risk of returning to Sudan for those who are forcibly sent back. It looks at the surveillance by the NISS on nationals outside Sudan and the impact such activity has on Sudanese who return to their country, building on our September 2012 report 'The Danger of Returning Home'. In this we predicted that further cases of intimidation and human rights abuses by the Sudanese security services would emerge. Etc.</p>	Not accepted	<p>This section of the CIG/CPIN covers a numbers of overlapping issues – different categories of returnee/reasons for ill-treatment on return – which could need to be clearer and make explicit links to the Sur place activities CIG/CPIN (where much of this is covered in further depth, e.g section 8). We agree that it is selective, but we consider this necessarily so in order to separate out the issues of returnees generally and failed asylum seekers.</p> <p>However, we do not agree information about the 3 anonymised persons not mentioned – Mr X, Mr Y and Mr El Baghdady – needs to be in this CIG/CPIN, rather in the 'sur place' one. This is because Mr X and Mr El Baghdady were not failed asylum seekers. The former was a politically active PhD student in the UK and appears to have returned to Sudan voluntarily, and the latter a British national (whose experience is considered in the Sur place CIG/CPIN. As for Mr X, the authorities suspected he had links to pro-democracy parties in the UK).</p>

9.			<p>While Mr Y, who's testimony is in fact partly quoted in para 5.1.6, was a refugee, also politically active in the UK, but who returned to Sudan on a British passport (and is also mentioned in the Sur place CIG/CPIN).</p> <p>We will add the material from the Waging Peace report in the Sur place CIG/CPIN, although it may be more accurate to refer to the testimonies themselves rather than WP's interpretation of the evidence.</p> <p>NB: Both the Waging Peace reports were considered by the Upper Tribunal in the CG case of IM and AI, and whose assessment is reflected in our guidance.</p>
10.	Information included at paragraph 5.1.10 should be removed as it is a repetition of information included at paragraph 5.1.8.	Accepted	We will remove this when we update this CIG/CPIN.
11.	<p><u>6. Returns statistics</u></p> <p>It is unclear how including statistics on the enforced removals and voluntary departures of Sudanese nationals in the period 2004 to 2015 to mainly third countries, i.e. other EU states, can be of assistance to decision-makers making a decision on those Sudanese who fear the Sudanese authorities specifically for making an unsuccessful claim for asylum in the UK. It is recommended that such superfluous and potentially misleading information within this context be removed.</p>	Not accepted	<p>The statistics are inaccurately described: they represent returns to Sudan only. We will therefore correct this.</p> <p>We consider this data relevant – they were also submitted as evidence in the CG case – since they show that persons are returned and thus provide an evidence base about whom we might expect difficulties to be reported / documented, allowing for difficulties for freedom of expression.</p>

12.	<p><u>Sub-sections missing and additional sources</u></p> <p>It is recommended that COI be included on the situation and treatment of detainees, given that the COI included in this CIG highlights that failed asylum seekers may face imprisonment on return and be exposed to mistreatment, particularly given that such information is not included in any other CIG published on Sudan.</p> <p>The reviewer has suggested a non-exhaustive list of sources</p>	Partially accepted	<p>Thank you for the sources.</p> <p>We are in the process of producing a range of CPIN on Sudan, including ‘opposition to the government’, and will review where this information is best placed since the issues overlap and may be conflated.</p> <p>Also, in our view, the evidence continues to indicate failed asylum seekers in general are not at risk of harm on return. Rather, the available information points to a person’s profile and where they are returning from as factors in determining how they may be treated on or after arrival.</p>
13.	<p>Additional useful source available post-publication is:</p> <ul style="list-style-type: none"> • Amnesty International, <u>Sudan must end violations of international human rights and humanitarian law and promptly investigate all allegations of torture, ill-treatment, arbitrary detention and excessive use of force: Human Rights Council adopts Universal Periodic Review outcome on Sudan [AFR 54/4875/2016]</u>, 22 September 2016 • Human Rights Watch, <u>Sudan: No justice for protestor killings</u>, 22 September 2016 	Acknowledged	<p>As is standard practice when updating CIGs/CPINs, we will assess this alongside the wider evidence particularly in light of the observations in the summary about these two organisations limitations on reporting about Sudan.</p>
14.	<p>Additional suggested sources to consult when updating this CIG and including information on detention include, but are not limited to:</p> <ul style="list-style-type: none"> • <u>Association for the Prevention of Torture</u> • <u>Hands off Cain</u> • <u>International Rehabilitation Council for Torture Victims</u> • <u>World Organisation Against Torture</u> • <u>World Prison Brief</u>, hosted by the Institute for Criminal Policy Research 	Acknowledged	<p>As is standard practice, we will consider it alongside other relevant material to determine the extent to which this is representative of the treatment experienced by the broad category of persons covered by the CIG/CPIN.</p>

16.	<p>It is interesting to note that the joint fact-finding mission report by the Danish Immigration Service and the UK Home Office, published in the August 2016, was not included in this CIG especially as it contains a sub-section on 'Returning failed-asylum seekers'. Given that the authors are the same, i.e. the UK Home Office, it should have been possible to coordinate the respective publication dates in order to include the fact-finding mission report into this CIG. Further, no mention of this report is made on the relevant Sudan country page of the Country Information and Guidance webpage. The relevant section reads as follows:</p> <ul style="list-style-type: none"> • Danish Immigration Service and UK Home Office, Sudan; Situation of Persons from Darfur, Southern Kordofan and Blue Nile in Khartoum; Joint report of the Danish Immigration Service and UK Home Office fact finding missions to Khartoum, Kampala and Nairobi Conducted February – March 2016, August 2016 	Not accepted	<p>We had intended to include information from the FFM report (which was eventually published on 31 August) in the CIG/CPIN.</p> <p>The FFM was, however, a joint mission and we were not able to release materials until both parties were content, which took longer than it might for the Home Office alone for various logistical and administrative reasons.</p> <p>However, we needed to update our CIG in light of the CG case of IM and AI, promulgated in April 2016, which we started in May and took the decision to publish these in early August rather than further delay informing decision makers.</p> <p>The FFM report is now available on the gov. uk website and has been available in on the Danish Immigration Service website since 31 August.</p>
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B6: Sudan ‘Sur Place’ activities

Home Office Response to IAGCI Review

Sudan: ‘Sur place’ activity in the UK (August 2016)

7 November 2016

Summary

The Home Office would like to thank the reviewer for the largely positive overall assessment (that the ‘COI included [...] is relevant, reliable, balanced and up-to-date’ and that the specific recommendations though sensible (and which we have accepted) are largely minor and do not point to any substantial deficiencies in the CIG/CPIN.

We also agree with the reviewer’s comments about the difficulties in obtaining information about Sudan from within the country, particularly given the lack of access to the country for human rights organisations such as Amnesty and HRW. This is also relevant regarding the suggestion for inclusion of updated annual reports which, whilst acknowledged, are only of partial value given they provide only general observations on the human rights situation and, in some cases, do so with the limitations that come with this lack of access.

We would also like to thank the Reviewer for the suggested additional material. In line with recent discussions with the IAGCI, and the suggestion by the IAGCI panel, we have used “acknowledged” (rather than ‘accepted’/‘not accepted’) in specific places where the suggested article(s) were published after the “cut-off date” for publication of the CIG/CPIN but are nevertheless potentially useful.

1.	<p><u>General observation</u></p> <p>For ease of reference and transparency it is recommended that the footnotes contain the relevant page number(s) and/or section headings, where applicable. For example, in the below case the information is taken from Table 12 on page 76 of the source referenced in footnote 3:</p> <p>4. Commission of Refugees / National Intelligence and Security Services [...]</p> <p>4.1.2 A report from International Organisation for Migration (IOM), dated 2011, listed the responsibilities of the Ministry of Interior's Commission of Refugees (COR):</p> <p>'Protecting, registering, counselling and providing material assistance and documents to foreign refugees at different administrative stages and all along their staying in the country. [...] ... Scrutinizing the requests of asylum in coordination with UNHCR [...] ... Management of refugees camps. [...] ... Undertaking or supporting awareness and information campaigns in coordination with other national and international institutions. [...] ... Following-up on the situation of Sudanese refugees abroad according to existing regulations. [...] ... Data collection, compilation of statistical reports studies on refugees.'³ [...]</p> <p>3 IOM, Migration in Sudan: A Country Profile 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/D2ECC0D6226DF41DC1257842003973F1-Full_Report.pdf Date accessed: 19 June 2015</p>	Accepted	<p>The Home Office takes the view that it is not completely fatal to not do so.</p> <p>Nevertheless, we acknowledge that, for the sake of increased transparency/traceability, this is good practice and we will endeavour to do so in future updates of both this CIG/CPIN and more generally (and we do do this in other CIG/CPINs already).</p>
2.	<p>It should be noted that certain COI included in this CIG could not be reviewed as its content was either not available in the public domain or not available in English. For example the report by Landinfo, Sudan: Scope of political activity critical to the regime, of 11 November 2013. However, the footnote usefully noted that the English translation could be made available upon request. Perhaps in future these could be automatically shared with the IAGCI reviewer?</p>	Partially accepted	<p>We will, as the footnote suggests, make it available on request. The Home Office is not notified of who the successful reviewer is, so cannot do this 'automatically'.</p>
3.	<p>The 'Back to contents' internal hyperlink is not active throughout the report, making it not very user friendly to scroll up and down to other relevant sections.</p>	Accepted	<p>We will fix this when we update the CIG/CPIN.</p>
4.	<p><u>Case law</u></p> <p>1. It is recommended that not only the promulgation date but also the hearing date of country guidance (CG) determinations be included in the CIG. This would allow decision-makers and COI researchers alike to target their case-specific research and research requests post-hearing for COI that was not considered in the case.</p> <p>For example, the most recent CG case on Sudan, IM and AI (Risks - membership of Beja Tribe, Beja Congress and JEM : Sudan) (CG) [2016] UKUT 188 (IAC) (14 April 2016) was promulgated on 14th April 2016, but the actual hearing took place on 4th November 2015, meaning that updated COI should be sought from the earlier date.</p>	Accepted	<p>See also response to review of failed asylum seekers CIG/CPIN. We are increasingly providing this information in our products.</p>

5.	<p>Moreover, it is recommended that relevant additional caselaw from the European Court of Human Rights be included. For example in the case of 'sur place' activity, the court in ECtHR - A.A. v. Switzerland, Application No. 58802/12, 7 January 2014 found that: etc etc.</p>	Accepted	We will include this caselaw in the update where relevant.
6.	<p><u>4.1 The National Intelligence and Security Services and affiliates</u></p> <p>Information included in paragraph 4.1.5 cites the 2014 annual human rights report by the U.S. Department of State as follows:</p> <p>4.1.5 The US State Department's 2014 Human Rights Report for Sudan reported:</p> <p>'Although the government in 2011 named a special prosecutor from the Ministry of Justice to monitor NISS detentions, the independent expert remained concerned about weak judicial oversight of NISS arrests and detention. In numerous press statements, the [UN] independent expert expressed concern over the NISS' failure to adhere to human rights principles, including respect for the rule of law in Khartoum, Darfur, and the Two Areas.'</p> <p>Though citing the same information, the more recent 2015 report should be included as the referenced source in footnote 7 as follows: U.S. Department of State, Country Reports on Human Rights Practices 2015: Sudan, 13 April 2016, Section 1d.</p>	Accepted	This will be addressed in future updates
7.	<p>Information included in this section is mainly taken from two annual reports covering 2014 instead of 2015 despite such reports being available at the time of publication. It therefore fails to take into account important developments and increasing restrictions of political space pre- and post-national elections that took place in April 2015.</p>	Accepted	
8.	<p>Further illustrative sources available at the time of publication of the CIG detailing the current restrictive political space and threats opposition members face have been listed here, but are by no means exhaustive of that available in the public domain:</p> <ul style="list-style-type: none"> • UN Human Rights Council (formerly UN Commission on Human Rights), Report of the Independent Expert on the situation of human rights in the Sudan [A/HRC/33/65], 28 July 2016 • UK Foreign and Commonwealth Office, Human Rights and Democracy Report 2015 - Human Rights Priority Country update report: January to June 2016 - Sudan, 21 July 2016 • African Centre for Justice and Peace Studies; African Soul, American Heart; et al., Open Letter concerning excessive use of force by Sudanese authorities [AFR 54/4309/2016], 3 May 2016 • Human Rights Watch, 'Good Girls Don't Protest': Repression and Abuse of Women Human Rights Defenders, Activists, and Protesters in Sudan, March 2016 	Accepted	We are drafting a CIG/CPIN on 'opposition to the government' which will cover risks faced by opposition in Sudan. The updated Sur place CIG/CPIN will cross-reference as appropriate.

	<ul style="list-style-type: none"> • Amnesty International, Sudan: Dire Human Rights Situation Continues: Amnesty International Submission to the UN Universal Periodic Review, May 2016 [AFR 54/3532/2016], 26 February 2016 • African Centre for Justice and Peace Studies (ACJPS), International Federation for Human Rights (FIDH), and International Refugee Rights Initiative (IRRI), Submission to the Universal Periodic Review of Sudan 2016, September 2015 • Human Rights Watch, Wave of Opposition Arrests, 28 August 2015 		
9.	<p>Additional COI available post-publication include as follows:</p> <ul style="list-style-type: none"> • Amnesty International, Sudan must end violations of international human rights and humanitarian law and promptly investigate all allegations of torture, ill-treatment, arbitrary detention and excessive use of force: Human Rights Council adopts Universal Periodic Review outcome on Sudan [AFR 54/4875/2016], 22 September 2016 • Act for Sudan; Alkarama Foundation; KACE - Al Khatim Adlan Centre for Enlightenment and Human Development; African Centre for Justice and Peace Studies; AI - Amnesty International; Cairo Institute for Human Rights Studies; et al., Sudan: Letter from 36 NGOs and individuals regarding the human rights situation in advance of the 33rd session of the UN Human Rights Council [AFR 54/4795/2016], 8 September 2016 	Acknowledged	As above – this information will largely be covered in the CIG/CPIN on ‘opposition to the government’.
10.	<p><u>4.3 Procedures for exiting Sudan legally</u></p> <p>It is recommended that information presented in this sub-section be ordered chronologically to increase user-friendliness.</p>	Accepted	This will be addressed in the update
11.	<p>Paragraph 4.3.1 contains information from the U.S. Department of State’s annual report covering 2014. This should have included the most current annual report covering events in 2015:</p> <ul style="list-style-type: none"> • U.S. Department of State, Country Reports on Human Rights Practices for 2015: Sudan, 13 April 2016 <p>[...] d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons [...]</p>	Accepted	This will be addressed in the update
12.	<p><u>5. The Sudanese disapora [sic] in the UK</u></p> <p>The title of this section has ‘diaspora’ misspelled. The same goes for the title in the ‘Index’ on page 3.</p>	Accepted	This will be addressed in the update
13.	<p><u>6.1 Sudanese diaspora organisations</u></p> <p>Paragraph 6.1.2 includes the wrong reference. The footnote states that the information included is taken from a 2006 IOM mapping exercise. Instead it cites IOM, Migration in Sudan: A Country Profile 2011.</p>	Accepted	This will be addressed in the update

14.	<p>Relying on a letter by Waging Peace and its associates, paragraphs 6.1.3 and 6.1.4 list a number of UK based groups and activists:</p> <p>6.1.3 An open letter from the NGO Waging Peace to Ban Ki-Moon, dated 22 December 2014, listed numerous UK based groups linked to Sudan including the Justice and Equality Movement (JEM); Darfur Victims Organisation for Rehabilitation and Relief (DVORR); National Sudanese Women Alliance in Diaspora, Beja Congress UK; Darfur Union UK & Ireland; SUDO; Voice of Darfur Women; Nuba Now; EASE Women Group; Beja Congress Corrective; Sudan Organisation for Development and DAAM (Network for Coordinating Sudan Pro-Democracy Action Abroad); other groups Waging Peace had been in contact with included the Massaleit Community in the UK and Ireland; Nuba Mountains Solidarity Aboard (NMSA) UK and Ireland; Zaghawa Community Association (Beri) and Tunjur Community in the UK (Birmingham).</p> <p>6.1.4 The Waging Peace letter, dated 22 December 2014, also listed numerous UK-based activists, including Gaafer Ali, Mohammed Bahari, Abdalla Ahmed; Sam Godolphin; Ahmed Elzobier; Ahmed Gamar; Hamza Yousif; Alhadi Altrayih; Mohammed Abaker; Ali Rahman; Rasha Ibrahim; Hashim Othman Mustafa Ibrahim. It is not known from the letter if these individuals are of Sudanese origin, but it is noted some are from Sudan.</p> <p>The actual letter lists in total 45+ organisations and individual activists. It is not clear on what criteria the organisations and individuals were selected for inclusion in those two paragraphs. It is recommended that either all are listed or alternatively a reference is provided to the existence of such a list. The last sentence in paragraph 6.1.4 further notes that some individuals are from Sudan and cites the tweet from one particular Sudanese activist. Again it is not clear whether all activists mentioned in the Waging Peace letter have been searched for such activities but no further information was provided on whether that particular activist is already known to the Home Office.</p>	Accepted	We will review these paragraphs for the update and consider if they remain relevant. If they do, we will reference the complete list.
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15.	<p>Information included in paragraph 6.1.7 is outdated [emphasis added]:</p> <p>6.1.7 Outside the Sudanese diaspora, other UK-based activist groups known to be interested in Sudanese refugee and asylum issues include Article 1, HART, the Aegis Trust and Waging Peace. In Westminster the All Party Parliamentary Group (APPG) for Sudan and South Sudan, chaired by William Bain MP, aims to ‘...[p]romote in Parliament and in Her Majesty’s Government the cause of peace, justice and development for all the peoples of Sudan.’</p> <p>The latest information available on the website of www.parliament.uk states that as of 12 October 2016 the purpose of the APPG for Sudan and South Sudan is “To influence the UK government’s policy and practice by promoting the cause of peace, human rights, justice and development for all the people of Sudan and South Sudan across the political spectrum in Westminster and Whitehall” and is chaired by Mark Durkan of the Social Democratic & Labour Party.</p>	Accepted	We will also review whether this information remains relevant when we update this CIG/CPIN.
16.	<p><u>6.2 The Justice and Equality Movement (JEM) and other groups in the UK</u></p> <p>At paragraph 6.2.4 the CIG states that [emphasis added]:</p> <p>6.2.4 An Agence France Presse (AFP) report dated 26 January 2012 noted that the current leader of JEM, Jibril Ibrahim (the brother of former leader, the late Khalil Ibrahim), pursued a teaching career in London while serving as JEM’s foreign affairs chief before he took control of the organisation. The source further noted that ‘[h]is lack of military experience was a major source of objections within the movement to his leadership.’ An open letter from Waging Peace, dated 22 December 2014, included Gebreil M Fediel (aka Jibril Ibrahim), chairperson of the JEM, as a signatory.</p> <p>Nowhere in the original source does it mention that Gebreil M Fediel is the same person as Jibril Ibrahim, the chairperson of JEM. A Google search results indicate that sources refer to Gebreil M Fediel as the “Vice-President of the SRF” [Sudan Revolutionary Front] and “A leading Sudanese exile based in the UK, Dr Gebreil Fediel from Darfur”, but no information has been found supporting the assertion made that he is the same person as ‘Jibril Ibrahim’.</p>	Accepted	We will correct if this material remains relevant to the update.
17.	<p>In paragraph 6.2.8 the CIG makes an assertion, which is not substantiated by the referenced source. It states [emphasis added]:</p> <p>6.2.8 JEM posted a YouTube video of a 2014 demonstration outside Downing Street. The demonstration was provoked by reports of multiple rape and acts of sexual violence by Sudanese security forces in Tabit, Darfur. JEM members made up over half of the people in attendance.</p> <p>The highlighted sentence is referenced to a You Tube video of the demonstration. However, nowhere is it mentioned that half of the demonstrators were made up of JEM members.</p>	Accepted.	This information is likely to be out of date for future updates. However, if it is used, this will be corrected.

18.	<p><u>6.3 Letters from diaspora groups to Sudanese asylum seekers</u></p> <p>An unsubstantiated assertion is being made in paragraph 6.3.4 in relation to letters the Home Office received in 2011 and 2012 by the reputable organisation Waging Peace. The paragraph states [emphasis added]:</p> <p style="padding-left: 40px;">6.3.4 It is not possible to verify the accuracy or reliability of the information contained in these letters. The letters supplied by Waging Peace are dated 2011 and 2012, and may no longer be current or accurate.</p> <p>No background information is provided to indicate why these letters should no longer be “current or accurate”. If the author of this CIG was concerned about the accuracy of the information given they are now 4-5 years old then this could have been investigated or an update sought by contacting Waging Peace directly, who are based in London, UK.</p>	Not accepted.	<p>The CIG/CPIN states that the letters may no longer be current or accurate because of the passage of time, which we consider is a reasonable qualification.</p> <p>We will, however, reconsider whether this information remains relevant to the update.</p>
19.	<p><u>7. Surveillance by Sudanese government</u></p> <p>The following additional COI is recommended for inclusion as it demonstrates the wide reach of surveillance conducted by the NSS outside of Sudan:</p> <ul style="list-style-type: none"> • Freedom House, Freedom on the Net 2014 - Sudan, 4 December 2014 • Landinfo, Temanotat Sudan: Handlingsrom for regimekritisk politisk aktivisme, 11 November 2013 • Amnesty International, Repression still stalks Sudanese activists who sought safety in Egypt, 17 January 2013 	Partially accepted	<p>We cite the Landinfo report in section 8 – we obtained an English translation for the CG case of IM and AI.</p> <p>We will include the other sources in the update, if they remain relevant.</p>
20.	<p>The following COI is also suggested for inclusion as it highlights the equipment and capabilities the Sudanese government has purchased to monitor internet communication:</p> <ul style="list-style-type: none"> • Freedom House, Freedom on the Net 2015 - Sudan, 2 November 2015 [...] Surveillance, Privacy, and Anonymity • Reporters without Borders, Enemies of the Internet 2014: Sudan, Undated Sudan: Scoring high in censorship 	Accepted	We will review and include if still relevant in the update.
21.	<p><u>7.2 Surveillance activities in Norway</u></p> <p>In July 2015 the UK asked various European countries whether they had any evidence that the Sudanese government is monitoring individuals and organisations from the Sudanese diaspora. In paragraph 7.2.3 the response from the Norwegians is included:</p> <p style="padding-left: 40px;">7.2.3 In July 2015, the UK asked various countries: ‘Do you have any evidence the Sudanese government has the capability to monitor individuals and organisations from the Sudanese diaspora in your country?’ Norway’s reply noted:</p>	Accepted	We will provide further detail in the update.

	<p>‘There has been one case of refugee [e]spionage in Norway, where a Sudanese man with refugee status in Norway in 2012 was arrested for collecting and handing over information on other refugees to a representative at the Sudanese Embassy in Oslo. The man was convicted in 2013, and the case was appealed to the Supreme Court, which in September 2014 sentenced the man to one year and three months in prison. The representative at the Embassy involved was asked to leave Norway, when the case evolved in 2012. ... We are not aware of other cases.’</p> <p>Unfortunately, no additional information is included on how many other countries responded and what their response was. Given the uniqueness of access to such information it is recommended that such information be made public.</p>		
22.	<p><u>8.1 ‘Persons of interest’ to the Sudanese authorities</u></p> <p>There remains a ‘track change’ icon that needs to be accepted in para 8.1.3</p>	Accepted	This will be addressed in the update
23.	<p><u>Sub-sections missing and additional sources</u></p> <p>1. As recommended further above for the CIG ‘Sudan: Failed asylum seekers’, a discreet section on ‘prison conditions and treatment in detention’ should be included. The CIG does highlight throughout that returnees have been arrested and imprisoned with some individuals providing testimonies of ill-treatment. Suggested sources are listed further above.</p>	Accepted	We agree that more information could be provided on treatment of persons in detention generally. However we consider this likely to be better covered in other products we are drafting on Sudan, cross-referring as appropriate.
24.	<p>2. In addition, similar to the observation made for the CIG ‘Sudan: Failed asylum seekers’, it is interesting to note that the joint fact-finding mission report by the Danish Immigration Service and the UK Home Office, published in the August 2016, was not included in this CIG. Relevant sections of the report would have included:</p> <ul style="list-style-type: none"> ➤ Danish Immigration Service and UK Home Office, Sudan: Situation of Persons from Darfur, Southern Kordofan and Blue Nile in Khartoum: Joint report of the Danish Immigration Service and UK Home Office fact finding missions to Khartoum, Kampala and Nairobi Conducted February – March 2016, August 2016 <ul style="list-style-type: none"> ◦ 2.1 Security and immigration checks at the airport ◦ 2.3 Return without an exit stamp ◦ 2.4 Return after a long-term stay abroad ◦ 2.5 Return with emergency travel documents ◦ 2.6 Impact of political profile ◦ 2.7 Impact of ethnic affiliation ◦ 2.8 Impact of country of departure 	Partially accepted	<p>See response to the review of CIG/CPIN on ‘failed asylum seekers’ for an explanation why information from the FFM report was not included in this CIG/CPIN.</p> <p>We will include relevant information from the report in the update.</p>

B7: Vietnam Country of Origin Information requests

Home Office Response to IAGCI Review

Vietnam: Country of Origin Information Requests (COIRs)

7 November 2016

Summary
<p>The Home Office would like to thank the reviewer for the suggested additional sources/ material. We will use the information in updating / developing other CPINs and where relevant also endeavour to notify whoever has ownership of a case which triggered the COIR aware of the updated material, as was recommended by the ICI.</p>

Review Conclusions/ Recommendations	Response	Home Office Comments
<p>60. Religious groups:</p> <p>Pure Hoa Hao Buddhism allowed anywhere in the country?</p> <p>Is relocation possible? Can we return to Vietnam?</p> <p>Response:</p> <p>The general controls related to religion should be considered with regard to Decree 92. [dvov.org/wp-content/uploads/2014/07/vietnam_decree_no-92_summary.pdf]</p> <p>This crucial decree came into effect on 1 January 2013, and in some ways was a positive attempt to regulate religion as part of a Vietnamese society. Instead, the Decree has tended to increase division for the following reasons.</p> <ul style="list-style-type: none"> i. There is no trust on either side, because of abuses that have taken place over the years since the war and the 'old style/voice from the past' label through which religion is viewed in its role as part of State. ii. Religious leaders of all shades, as well as lawyers and activists, have criticised the new decree for being more harsh than its predecessor, for using vague and ambiguous terminology, and enforcing bureaucracy and regulation on what the activists describe as 'the peaceful and lawful activities of religious believers'. iii. Hoa Hao Buddhists are included, and we should recognise that this group is heavily associated with South opposition during the war in the 1970s. Currently, they are unlikely to get interest and sympathy from Government. iv. Overall, Decree 92 is aimed at the control or management of religious groups and activities, rather than the protection of freedom of religion or belief. Many religious groups choose not to register because they believe firmly that registration will enable the authorities to increase their control over their activities. 	<p>Accepted</p>	<p>This information will be used when updating the CIG/CPIN on Vietnamese religious groups.</p>

<p>Crime and corruption - 1. Is there a criminal data base in Vietnam? 2. If an individual moved to a different area, would he would be traceable to the authorities?</p> <p>2.1. Vietnam has a well-supported reputation for operating as a police state. It is reasonable to accept that functioning data bases are kept of criminal activity. Most countries keep such a data base.</p> <p>Vietnam is also a country in a gradual state of change in political economic and social affairs [see e.g http://www.worldbank.org/en/country/vietnam/overview] and the Government has shown determination for reform. The 2011 – 2020 Socio-Economic Development Strategy (SEDS) gives attention to structural reforms, environmental sustainability, social equity and emerging issues of macroeconomic stability. It defines three “breakthrough areas”: (i) promoting human resources/skills development (particularly skills for modern industry and innovation); (ii) improving market institutions, and (iii) infrastructure development.</p> <p>2.2. The aim of the Government is to consolidate Vietnam into a united State from many disparate ethnic groups. Consequently, in relation to the individual mentioned in Request 4 [item 2.3.4.], we can assess that there is only a slight chance; i.e. that moving to a different area would improve safety and delay arrest. [See also Section 1: 1.2.6].</p> <p>2.3. As mentioned in section 1, it is very difficult to claim benefits of any kind without registration, leaving the individual, who is seeking not to be noticed, to a life on the very margins of existence. [See discussion of Ho Khai registration [See item 4.8. this doc].</p> <p>2.4. The ‘Responses in Section 1.2.6. and in this Section, demonstrate the network of investigative policing functions, which seek to achieve as much coverage of the country as possible.</p>	<p>Accepted</p>	<p>Thank you for the observations. Given that the response was case and time specific, we will assess the need to develop this further in conjunction with our decision makers. We may include – alongside the recommendation in review of the Trafficking CIG/CPIN – about registration.</p> <p>In the meantime, in line with previous discussions with the IAGCI, we will link the reviewer’s comments to this response.</p>
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3.	<p>Political Affiliation – Monitoring of Demonstrations:</p> <p>4. Do the Vietnamese government take note of people attending demonstrations at their embassy in London?</p> <p>5. Do the Vietnamese government have any interest in someone who has been demonstrating outside their embassy in London if he returned to Vietnam?</p> <p>6. Do the Vietnamese government view Amnesty International as an opposition political group?</p> <p>Regarding demonstrations in UK, while it is difficult to find factual evidence to respond to this very legitimate inquiry, it seems likely in the present political climate, that Vietnamese Embassy staff would have an interest in those who are demonstrating outside their door, and at least take photographs.</p> <p>However, as anecdotal evidence seems to show, an individual with no criminal record, arriving back from abroad is unlikely to be challenged if he is not known as a specific threat.</p> <p>Much depends on the possible further problems that might arise once back in Vietnam, where demonstrations against Government policy are likely to be confronted. If the individual was already at risk, then one piece of contributing evidence might indeed be demonstrating outside the Vietnam Embassy in London. Overall, the likelihood is that one legal demonstration in a foreign country will not be noticed, unless it is part of a much larger picture of serious offences under Vietnam law.</p> <p>Amnesty International appears to be regarded with caution and some suspicion by the Vietnam Government, probably because it represents a westernised version of human rights and is an independent action group.</p> <p>Amnesty was contacted for their opinion [10 October 2016], regarding such demonstrations and they referred the following cases:</p> <p>iv. Case One deals with a case of an activist being arrested following an overseas advocacy/awareness-raising tour: https://www.amnesty.org/en/latest/news/2016/07/ending-torture-in-viet-nam/</p> <p>v. The following case refers more generally to the treatment of prisoners of conscience in Vietnam: https://www.amnesty.org/en/latest/news/2016/07/the-secretive-world-of-viet-nam-torturous-prisons/</p> <p>vi. The most recent case [Dec 2015] which highlights Article 88 is referenced here: https://www.amnesty.org/en/latest/news/2015/12/viet-nam-arrest-of-human-rights-lawyer-highlights-spurious-commitment-to-human-rig/</p>	Accepted	This information will be used when updating the CIG/CPIN on political opposition.
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	<p>An important consideration is Article 88 of the Vietnam Penal Code, which has been interpreted by human rights watchers as being in contradiction to the International Covenant on Civil and Political Rights to which Vietnam is a signatory. The terms of Article 88 read as follows:</p> <p>Article 88:-Conducting propaganda against the Socialist Republic of Vietnam:</p> <p>1. Those who commit one of the following acts against the Socialist Republic of Vietnam shall be sentenced to between three and twelve years of imprisonment:</p> <p><i>a) Propagating against, distorting and/or defaming the people’s administration;</i></p> <p><i>c) Making, storing and/or circulating documents and/or cultural products with contents against the Socialist Republic of Vietnam.</i></p> <p>2. In the case of committing less serious crimes, the offenders shall be sentenced to between ten and twenty years of imprisonment.</p> <p>[http://un-act.org/wp-content/uploads/2015/11/Vietnam-Penal-Code.1999.en]</p>		
4.	<p>Nationality and Same Sex Relations:</p> <p>The question on nationality relates to an applicant who is a Pakistani national living with a Vietnamese national as a dependent on his claim. The applicants are two males who are joined in Civil Partnership in the UK. I have noted in section one that being gay is not illegal in Vietnam.</p> <p>1. Is it possible for the male Pakistani lead applicant to apply for leave and return to Vietnam with his Vietnamese male partner to live together?</p> <p>2. What is the process the Pakistani national needs to go through to make this application and what application does he need to make?</p> <p>Response:</p> <p>There appear to be two sets of problems in this case: the first to do with acceptability of same sex relationships in Vietnam [even though the legislation is in place], and the second problem, which is about questioning why it has to be the Pakistani who legally brings his partner through the migration process to reintegrate back into Vietnam as a citizen.</p> <p>It is puzzling or perhaps suggestive of some other problem, that the Vietnamese does not want to return through immigration authorities and to declare himself to be responsible for his partner. It may be that he does not want to act as the dominant partner, but the reluctance might also hint at a concern that he might be targeted, if he is responsible for bringing his Pakistani partner into Vietnam.</p> <p>The following article is from wikipedia- ‘Same sex marriage in Vietnam’ and may have some bearing on the above dilemmas:</p>	Accepted	<p>Thank you for the observations. Given that the response was case and time specific, we do not propose to update although the comments and additional material may be useful for inclusion in a future CIG/CPIN on Sexual Orientation and Gender Identity.</p> <p>However, in line with previous discussions with the IAGCI, we will link the reviewer’s comments to this response.</p> <p>We do not generally use Wikipedia as a source for information per se (because the information it provides can be provided by non-reputable sources). We would, however, refer to the original source contained within it.</p>

	<p>On 27 May 2014, the National Assembly's Committee for Social Affairs removed the provision giving legal status and some rights to cohabiting same-sex couples from the government's bill to amend the Law on Marriage and Family. The bill was approved by the National Assembly on 19 June 2014, and took effect on 1 January 2015.</p> <p>In addition:</p> <p>Entry of Movement law, passed in 2014 on foreigners' entry into, exit from, transit through and residence in Vietnam and ratified in 2015, states that : for foreigners it is illegal to be found:</p> <p>4. Providing false information or documents in order to obtain permission for entry into, exit from, transit through or residence in Vietnam.</p> <p>5. Taking advantage of entry into, exit from, transit through or residence in Vietnam to act against the Socialist Republic of Vietnam; infringing upon rights and legitimate interests of other agencies, organizations and individuals.</p> <p>The conclusion is that since the status of gay relationships is still fragile in Vietnam, and less than equivocally expressed in law, it seems likely that the Pakistani partner is taking some risk by applying to enter Vietnam with his partner.</p>		
5.	<p>Can you provide information regarding current treatment of single mothers in Vietnam. Particularly those who have had children out of wedlock?</p> <p>Women in Vietnam are still a long way from being seen as socially acceptable and as able as men. Constitutionally, women have equal rights [see Article 130, VN Penal Code No. 15/1999/QH10], but in reality, are more likely to suffer prejudice in society and under the law.</p> <p>Particularly within the Kinh majority population, there is still enough belief or influence in the law of Confucius. This influence continues to encourage a favouritism towards boys in families, and more limited expectations regarding girls. These features are in addition to the usual gender issues that women face in gaining respect within society</p> <p>Throughout the county, there are many variations of this general attitude, depending on circumstances such as the ethnic minority involved, economic environment, ethical principles and location. [See e.g. Enders, Kirsten; 2015: Weaving women's spheres in Vietnam. <u>https://books.google.co.uk/books?isbn=9004293507</u>]</p>	Accepted	<p>Thank you for the observations. Given that the response was case and time specific, we do not propose to update although the comments and additional material may be useful for inclusion in a future Background Note (or discrete CIG/ CPIN on women.</p> <p>However, in line with previous discussions with the IAGCI, we will link the reviewer's comments to this response.</p> <p>We were not able to access the link to Enders, Kirsten; 2015: <u>Weaving women's spheres in Vietnam.</u></p>

	<p>The background situation, in terms of gender relations, extends to single women who are not seen to have 'entered' family groups, but instead have their children alone. According to popular attitudes, such women must be more likely to fail in some way or have already failed/ brought shame, just by finding themselves in that situation.</p> <p>An indication of attitudes is demonstrated in a recent survey on sexual and physical violence which was much applauded for progress, because currently, slightly less than two thirds of the population accepted such abuse as inevitable. [see below].</p> <p>Slow change is continuing and widespread: see e.g. - Global Action 2016; 9: 10.3402/gha.v9.29577. Published online 2016 Feb 29. doi: 10.3402/gha.v9.29577 PMID: PMC4780074; Changes and socioeconomic factors associated with attitudes towards domestic violence among Vietnamese women aged 15–49: findings from the Multiple Indicator Cluster Surveys, 2006–2011 Qanh Thi Hoang Trinh,^{1,*} § Juhwan Oh,^{2,*} § Sugy Choi,² Kien Gia To,¹ and Dung Van Do</p> <p>Changes in gender relations seem to be occurring for two main reasons. The aftermath of the war left very many, single women forced to enter the workplace. Earning a salary and with a lack of need to be dependant on a man, some women chose not to become dependent and to remain single. This group is slowly having influence on future generations and the coding of the law. There is also a need for skilled women to enter the workplace, due to gradual growth in the economy and increasing opportunities for female labour in production and general paid employment.</p> <p>For a general overview on this topic, see: Ann Brooks, 'Social Theory in Contemporary Asia, pub by Routledge, 2011.</p>		
6.	<p>Money Lenders and Loans</p> <p>The claimant claims to have been in business and he borrowed money to fund a contract. That contract fell through and he could not repay the debt. The claimant claims to have borrowed money from the "Hung Cuong Money lenders" and that they have many branches across Vietnam including the branch in Ph Ny village, Hanoi where he got his loan from.</p> <ul style="list-style-type: none"> • Is there any evidence of a 'Hung Cuong Money lenders' lending business' money (legal or illegal) operating in Vietnam? • If so is it a legal business? And what is scope of operations? • Is there any evidence that it would loan 800 million dong to an unincorporated business without any security? Or without being shown the borrower's financial statements? • If such a business exists is there any evidence to show how it would seek to recover funds from a loan in default? • The claimant described himself as bankrupt, but claimed not to have gone through a formal legal proceeding. Can you provide any evidence as to the insolvency laws in Vietnam, in particular relating to sole traders (unincorporated business)? • Can you find any evidence which would show how the authorities, would react to a complaint against a creditor pursuing debt by means of intimidation, threats or violence? 		

	<p>Response:</p> <p>Hung Cuong⁵¹ is a fairly common name or phrase, associated with the nickname of a popular musical artist before the war, who left for the USA. The phrase has quite positive associations [<i>there is a hotel chain called Hung Cuong and it may also refer to national assembly members</i>], so it might be a possible choice of name for moneylenders. Moneylenders abound in Vietnam and tend to be loosely regulated, or operate informally. It is the traditional way of doing business, currently strained by the growing need to have capital, in a situation of rising population and endemic poverty, with lack of enforced regulations.</p> <p>In recent years there have been many stories of students accumulating debt,⁵² e.g. - In Ho Chi Minh, there are numerous ‘universities’ where students are paying for their education and who have been reported as entering threatening situations by negotiating with ‘money lenders’, who may also have gang leaders as friends, if reports are to be believed. It is likely that the claimant is in a precarious position [especially if he has not undertaken formal bankruptcy proceedings – see 4.7. below.</p> <p>The legality of the business, which it is claimed is being established, will be the responsibility of the owner. One could usually assume that the debt is a private matter, especially if it is a large sum, without insurance. The owner is likely to be responsible for the debt and the business.</p> <p>There are procedures for bankruptcy. They tend to be long and complicated and may take several years to complete. The full details are given at - http://www.doingbusiness.org/data/exploreconomies/vietnam/resolving-insolvency/</p>		
7.	<p>Double Jeopardy</p> <p>The subject of the Request was convicted of cannabis cultivation in the UK and sentenced to 4 years imprisonment. He was subsequently served a deportation order and had an asylum claim refused. He has now lodged further submissions claiming if he is returned to Vietnam he will be subject to double jeopardy. He claims that he will be imprisoned and most likely sentenced to death for this crime.</p> <p>Article 6 of the Vietnam Criminal Code states that: Vietnamese citizens who commit offences outside the territory of Vietnam may be examined for penal liability in Vietnam.</p> <p>Is there objective evidence of the frequency whereby Vietnamese citizens who commit crimes abroad, may be prosecuted on their return to Vietnam the question is specifically in relation to cannabis charges as opposed to heroin, cocaine or any other class A drugs?</p>	Accepted	<p>Thank you for the observations. Given that the response was case and time specific, we do not propose to update. However the comments and additional material may be useful for inclusion in a CPIN Background Note.</p> <p>However, in line with previous discussions with the IAGCI, we will link the reviewer’s comments to this response.</p>

⁵¹ Hung Cuong is written without the essential tonal diacritics

⁵² www.thanhniennews.com › ‘Society’, 10 Dec. 2010

	<p>Response:</p> <p>This individual is concerned that having been prosecuted in the UK and served his sentence, he will have to serve another sentence on return to Vietnam, thus facing double jeopardy.</p> <p>Since at least 2009, there appears to be no evidence of cases presented or prosecution for marijuana [cannabis] offences after return to Vietnam. As mentioned, the Penal Code of Vietnam Article 93 states that those who illegally produce narcotics in any form are liable to sentences of between 2-7 years. Marijuana is clearly included.</p> <p>The issue remains complicated and uncertain. As an illustration, there is almost no information on refoulements available to the general public, despite the fact that MOUs [Memorandum of Understanding] have been signed between Vietnam and the UK. This appears to be a general foreign policy. For example, the Australian Government returned 47 asylum seekers in 2015, but no information has since been forthcoming regarding their whereabouts or circumstances [www.refugeecouncil.org.au].</p> <p>Moreover, the individual concerned, in the COI Request, has now made himself liable to other offences such as Article 88 -‘propagating against, distorting and defaming the people’s administration’ or 1.b, spreading fabricated news- [1999 Penal Code Vietnam], even if indeed he is not liable on the grounds that he maintains. By protesting it appears that he makes himself more visible and more potentially liable to other consequences.</p>		
8.	<p>The Ho Khao Registration System</p> <p>Describe what the Ho Khao does</p> <p>Response:</p> <p>The Request concerning the Ho Khao system had been comprehensively answered by others, when I received it. I would only add that the penalties for losing this status can seriously affect a family and their access to a range of social support and services. There are some queries which remain not totally clear regarding those Vietnamese who have left Vietnam and are removed from their Ho Khao registration. Residence Law Implementation 2007.</p> <p>If citizenship is retained while abroad, then it is likely that, eventually, the Ho Khao can also be reclaimed.</p> <p>Saigon Giai Phong Daily 29 June, http://www.saigon-gpdaily.com.vn/Law/2007/6/56583/ Attachment 2). Government Information & Reports US Department of State http://www.state.gov/ Non-Government Organisations Human Rights Watch http://www.hrw.org/ Amnesty International http://www.amnesty.org Region Specific Links Asian Centre for Human Rights website http://www.achrweb.org. Refugee Review Tribunal 2008.</p>	Accepted	<p>Thank you for the observations. Given that the response was case and time specific, we do not propose to update.</p> <p>However the comments and additional material may be useful for inclusion in a CPIN Background Note which may include – alongside the recommendation in review of the Trafficking CIG/CPIN (and the COIR #2) – about registration.</p> <p>However, in line with previous discussions with the IAGCI, we will link the reviewer’s comments to this response.</p>

9.	<p>Illegal Exit and Crimes Abroad:</p> <p>The applicant claims he would be arrested for leaving Vietnam illegally. He also claims that he would be of interest to the Vietnamese police due to his crimes in the UK. Are these actions likely to result in any adverse official scrutiny?</p> <p>Response:</p> <p>As stated in the responses already made regarding double jeopardy, the Penal Code of the Vietnam Government covers the situation of crimes committed by Vietnamese abroad. There are exchange and transfer arrangements between the Governments of the UK and Vietnam. There is less clarity on a 'double jeopardy' possibility, [see 4.7.], which may at least partially depend on the Vietnam Government internal policy at the time of transferral.</p> <p>Regarding his illegal departure from Vietnam, the authorities may question why the applicant chose to leave Vietnam illegally, and thus commit a crime by doing so. The Penal code covers and provides penalties for unofficial/illegal movements.</p> <p>Socialist Republic of Vietnam, Penal Code, 1999, http://moj.gov.vn/vbpq/en/Lists/Vn%20bn%20php%20lut/View_Detail.aspx?ItemID=610.</p>	Accepted	<p>Thank you for the observations. Given that the response was case and time specific, we do not propose to update. However the comments and additional material may be useful for inclusion in a CPIN Background Note.</p> <p>However, in line with previous discussions with the IAGCI, we will link the reviewer's comments to this response.</p>
10.	<p>Use of Technology at Airports.</p> <p>Does the airport in Hanoi (or any airports in Vietnam) use face recognition software, or at any of the entry/exit points? Are there 'Watch' or 'Stop' lists at the entry/exit points?</p> <p>Response:</p> <p>Response from the Embassy:</p> <p>The Migration & Immigration Liaison Manager, located at the British Embassy in Hanoi responded to the questions above in an email, dated 17 August 2016:</p> <ul style="list-style-type: none"> • Does the airport in Hanoi (or any airports in Vietnam) use face recognition software, or at any of the entry/exit points? 'No' • Are there 'Watch' or 'Stop' lists at the entry/exit points? 'Yes' <p>Response from Reviewer :</p> <p>As I have observed at Vietnam airports, I agree with the comments made by the Embassy in Hanoi.</p>	Accepted	<p>Thank you for the observations. Given that the response was case and time specific, we do not propose to update. However the comments and additional material may be useful for inclusion in a CPIN Background Note.</p> <p>However, in line with previous discussions with the IAGCI, we will link the reviewer's comments to this response.</p>

B8: Vietnam Trafficking

Home Office Response to IAGCI Review

Vietnam: Trafficking (May 2016)

7 November 2016

Summary
The Home Office would like to thank the reviewer for the positive overall assessment of the CIG, Vietnam: Trafficking (May 2016). We have accepted the recommendations.

Review Conclusions/ Recommendations	Response	Home Office Comments
<p>61. Consider approaching the issue of trafficking as a type of experience that is common among forced migrants, rather than a category of a particular individual. Trafficking tends to be opportunistic, taking advantage of circumstances that encourage or force people to move. It is a crime which nearly always increases hardship, poverty, loss of status and distress; according to the Anti- Slavery Act 2015:</p> <p>www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling)</p>	Partially accepted	<p>The CIG/CPIN already includes a link to comprehensive guidance on Victims of modern slavery – Competent Authority guidance (referred to in section 1.2.1 by its former title ‘Victims of human trafficking: competent authority guidance’). We will update to make the linkage more transparent/accurate when we update this CIG/CPIN.</p>
<p>62. Following point 1, it is probably useful to read both Reports 1 [CIG Trafficking] and 2 [CIG Opposition to Government] in conjunction with each other. The background in the country of origin, Vietnam, is vital to understanding how the person comes to be vulnerable to being trafficked. It also helps to explain the operational ‘drivers’ of the trafficking ‘industry’ both inside Vietnam and Southeast Asia. These drivers can rapidly shift in focus, depending on how local pressures develop, from government, communities and trafficking opportunists. On arrival, these factors will affect presentation of claims and ‘perceived threat’ scenarios.</p>	Accepted	<p>We recognise that there can be links between trafficking and other risk categories. We will add more relevant cross referencing when we update this CIG/CPIN.</p>
<p>63. A wide range of sources would probably improve understanding of an evolving situation by means of a broad range of data. Currently, both CIGs [including Vietnam: Opposition to Government (December 2014)] have a heavy reliance on US material from State sources and related agencies. It is recommended that the range be extended to reports from NGOs, journalists, broadcasters and social media, in order to gauge general public opinion and action related to law.</p>	Accepted	<p>We endeavour to use as wide a range of balanced sources as possible which are relevant to the issue and will seek to broaden the range in the next version. Any sources which the reviewer specifically recommends would be gratefully received.</p>
<p>64. 2.6</p> <p>Item 2.3.4 (Report 1) suggests that people can regularly be returned or move around Vietnam, undetected. Because of the surveillance networks and the strength of the Party system, it is unlikely that a trafficked person may return to Vietnam, or move to different areas, and not be noticed by Government. The size of the cities and the population are unlikely to be an adequate cover, since Government networks of known individuals appear to be fairly comprehensive. The reach of the Party extends to village and commune level everywhere in Vietnam. As one example [out of many] of how this control may operate, last year returnees from Australia were incarcerated on return, even though, through diplomacy, their safe passage and reinstatement was assured</p>	Not accepted	<p>The CIG/CPIN is aimed at considering claims where a person fears (a) being (re-) trafficked and/or (b) reprisals from their traffickers. The Home Office does not consider it necessary to cover the point about the Govt’s ability to track/trace a person as they are not the ‘actors’ of persecution.</p>

65.	<p>2.7</p> <p>There is a growing, internal migrant population living in extreme poverty , mainly composed of ethnic communities moving or displaced from highlands into urban areas [see also CIG 2]. Failure to register or difficulties in being able to access registration means lack of access to any Government social insurance or assistance. At present, coverage of social insurance schemes for this group is stated as limited. They may be regarded as a sector which is vulnerable to trafficking.</p>	Partly accepted	We will consider if/how to expand on the point about registration (and the implications when there are problems doing so) and which CIG/CPIN that might best be placed.
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B9: Vietnam Opposition to Government.

Home Office Response to IAGCI Review

Vietnam: Opposition to Government (December 2014)

7 November 2016

Summary
The Home Office would like to thank the reviewer for the positive overall assessment of the CIG, Vietnam: Opposition to Government (December 2014). We have accepted the recommendations.

Review Conclusions/ Recommendations	Response	Home Office Comments
66. Report 2, 'CIG Opposition to Government' might be further improved with a succinct overview of the geo-political and economic circumstances of Vietnam. The Government of Vietnam has been observed to become more tense and authoritarian in the last five years: a tendency that is likely to encourage migration of nationals.	Accepted	We will incorporate a short section along these lines in the updated version.
67. A wide range of sources would probably improve understanding of an evolving situation by means of a broad range of data. Currently, both CIGs [including Vietnam: Trafficking (May 2016)] have a heavy reliance on US material from State sources and related agencies. It is recommended that the range be extended to reports from NGOs, journalists, broadcasters and social media, in order to gauge general public opinion and action related to law.	Accepted	We endeavour to use as wide a range of balanced sources as possible which are relevant to the issue and will seek to broaden the range in the next version. Any sources which the reviewer specifically recommends would be gratefully received.

Annex C1: Agenda of the IAGCI meeting held on 11 November 2016

Meeting of the Independent Advisory Group for Country Information

10 November 2016

2 p.m. – 5 pm

**Venue: Office of the Independent Chief Inspector for Borders and Immigration, 5th Floor,
Globe House, Eccleston Sq, London SW1V 1PN**

Agenda

Apologies: Michael Collyer, Andrew Jordan, Patricia Daley, Harriet Short

Guests:

Dr Orzala Ashraf-Nemat, Afghanistan Reviewer

Stephanie Huber, Sudan Reviewer

Dr Linda Hitchcox, Vietnam Reviewer

1. Introduction of new IAGCI members
2. Afghanistan Review
3. Chair's Report
4. Sudan Review
5. Vietnam Review
6. Any Other Business
7. Scheduling of next meeting

Annex C2: Minutes (approved) of the IAGCI meeting held on 11 November 2016



MINUTES OF THE Independent Advisory Group on Country Information (IAGCI), 10 November 2016

Venue: 5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN

Present: Members

Dr Laura Hammond (Chair)	- School of Oriental & African Studies
Dr Ceri Oeppen (CO)	- University of Sussex
Katinka Ridderbos (KR)	- UNHCR
Prof Giorgia Dona (GD)	- University of East London
Dr Nando Sigona	- University of Birmingham
Dr Julie Vullnetari	- University of Southampton

Representatives from ICIBI

David Bolt (DB)	- Independent Chief Inspector
Adrian Duffy (AD)	- Inspector
Foizia Begum (FB)	- Inspector
Grant Morris (GM)	- Inspector
Tim Wetherall (TW)	- Inspector
Paul Sherratt (PS)	- Inspector
Claudia Cimino (CC)	- Comms Manager

Representatives from Country Policy Information Team (CPIT), Home Office

Martin Stares (MS)	- Head of Unit
Andrew Saunders (AS)	- Team Leader
Robin Titchener (RT)	- Team Leader
Pauline Crichlow	- Researcher
Susan Betts	- Researcher

Sandra Gopy	- Researcher
Stephanie Itimi	- Researcher
Dena Rafati	- Researcher

Commissioned reviewers

Dr Orzala Ashraf	- Nemat (OA-N) (by phone) Afghanistan Reviewer
Stephanie Huber (SH)	- Sudan Reviewer
Dr Linda Hitchcox (LH)	- Vietnam Reviewer

Apologies:

Patricia Daley (PD)	- University of Oxford
Michael Collyer (MC)	- University of Sussex
Andrew Jordan (AJ)	- Immigration Upper Tribunal
Harriet Short (HS)	- ILPA

Agenda Item	Issue	Action point
1. Chair's Report	<p>The chair welcomed everyone to the Chief Inspector's Independent Advisory Group on Country Information.</p> <p>The chair also introduced and welcomed three new members of the IAGCI –Professor Giorgia Dona, Dr Nando Sigona, Dr Julie Vullnetari.</p>	

<p>2. Afghanistan Reviews</p>	<p>The Chair introduced OA-N (on the phone) who reviewed the Country Information and Guidance (CIG) and Country of Origin Information Requests (COIRs).</p> <p>OA-N thanked the IAGCI for giving her the opportunity to review the reports and the Home Office for their comments on her reviews. She wanted to make clear that she had not intended comments on the absence of evidence to be a critique of CPIT but rather an explanation that there is limited evidence available in the public domain.</p> <p>With regard to the sexual orientation and gender CIG, MS said that he recognised that in many cases internal relocation was not a viable solution for LGBT applicants. However, the guidance was drafted to help ensure that the caseworker gives consideration to that issue with respect to the facts of the case.</p> <p>OA-N advised that there were few known cases of LGBT females being imprisoned, but there had been a recent news report by the BBC. MS agreed to consider insertion of a reference to there being no known cases, but indicating that there may be a risk nonetheless.</p> <p>CO also made the point that the wives and children of homosexual males may be at risk, but the CIG did not reflect this. MS noted this.</p>	
	<p>OA-N advised that although the CIG correctly identified “eunuchs and cross-dressers” as commonly being associated with Pashtun culture, the Home Office should be wary of assuming that other cultures do not also include similar individuals. MS stated that he would consider how to make this clear.</p> <p>OA-N also advised that, with respect to the recent killing by a mob of a female who was accused of burning the Quran, while the murder was not directly driven by gender issues, there were gender-based undertones to the case, with an event prior to that fuelling ill-feelings toward women who demonstrated or who were human rights defenders.</p> <p>Turning to the COIRs, OA-N advised that she had found limited information on risks as a result of desertion from the police of having tattoos, but said that she would check for further information while in Afghanistan. She offered to also endeavour to provide further references to former members of Shura-e Nazar being in positions of influence. (The Chair clarified that as this was an Information Request of relatively short length and not part of a longer country report, it was not necessary to spend a great deal of time gathering additional information.)</p> <p>The Chair thanked OA-N for her work. MS, on behalf of CPIT, thanked OA-N for her contributions and positive feedback</p>	<p>1. Chair to forward further information to CPIT once received.</p>

<p>3. Sudan Reviews</p>	<p>The Chair introduced SH who presented her reviews of the Sudan CIGs and COIRs.</p> <p>SH remarked that the COIR was reliable, balanced, and, in the main, current. However, she did comment that some of the reports cited were not available in the public domain, or at least were not available in English, so it would be helpful in those circumstances if copies could be provided to the reviewers. She also queried the inclusion of voluntary departures and enforced removal statistics within this CIG when they did not appear in others, particularly as there was no monitoring of those who return. MS stated that this was in place in order to demonstrate to caseworkers that returns did take place, and that the CIG indicated that there was little clear evidence of risk on return.</p> <p>SH also commented on the gap in terms of the treatment of detainees. MS advised that they would cover this in pending CIGs (hereafter to be titled 'Country Policy and Information Notes' – CPINs) and that current information indicated that there was little risk of an individual being detained based on suspicion that they might be a failed asylum seeker.</p> <p>SH then advised that she considered the 'Sur Place' CIG to be relevant and reliable, although she was surprised there was no reference to some more recent annual reports.</p> <p>Finally, in respect of Information requests, SH considered these to be current, accurate and balanced, but they were limited. SH cited one case in which the security situation was referenced but no additional information on human rights, or other issues, had been provided.</p> <p>MS thanked the reviewer for her positive reviews. He said he was aware of the issue of some reports (particularly LandInfo reports) not being publicly available and said he would discuss with the Chair providing copies to reviewers.</p> <p>KR advised that UNHCR would appreciate if references to 'failed asylum seekers' could be replaced by use of the term 'rejected asylum seekers'.</p>	<p>2. Chair/MS to discuss the issue of providing reports which are not publicly available to reviewers.</p> <p>3. MS agreed to consider using the term 'rejected asylum seekers' rather than 'failed asylum seekers.'</p>
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<p>4. Vietnam Reviews</p>	<p>The Chair introduced LH and asked her to present her findings on her review of the Vietnam CIGs and COIRs.</p> <p>LH opened by explaining the background and context of trafficking in Vietnam. She continued that the Vietnamese Government had taken a keen interest in trafficking and, as such, victims who were returned were likely to be of interest to the authorities. Although she accepted the point that the UK Government would not inform the Vietnamese Government of the victim's status, the pervasiveness of trafficking meant that the Vietnamese authorities were likely to assume that any individuals returned were potential victims or had had some connection to trafficking networks. The risk arises in that trafficking networks extend into government, and information about anyone who had been trafficked might pose a security risk to them.</p> <p>MS thanked LH for her comments and explained that while background and context was useful, there was a balance to be struck between the amount of background information provided and what the decision maker needed to consider any claims.</p> <p>JV commented that LH's comments echoed work she had done in Albania, where social networks were vital for support and financial assistance. As was the case in Vietnam, this (and the overall culture of the society) meant that it was likely members of the community would report any returnees to the authorities.</p> <p>With respect to the CIG on 'Opposition to the Government' LH considered that the main points were covered.</p> <p>MS again thanked LH for her review. MS, and KR, asked if LH could obtain and provide further specific sources to assist them in improving their knowledge base. LH advised that she would acquire and send those sources.</p> <p>The Chair thanked LH for her review and asked that any further sources be provided within 5 working days from this meeting.</p>	<p>4. LH to provide further sources to the Chair within 5 working days. Chair to forward to MS and KR.</p>
<p>5. AOB</p>	<p>1) MS requested that the review template be restructured in order that it is easier for CPIT to respond to comments. This included the reviewer being clear as to whether the reviewer was making a firm recommendation, and/or where they wanted a response from the Home Office.</p> <p>The Chair was broadly content to support the restructure of the document, but wanted to ensure that the template did not simply become a list of action points – the narrative is important to conveying the full context of the review.</p> <p>All agreed that it would help if there were only 1 document, with space for HO responses, rather than 2 as is the case at present.</p> <p>CO volunteered to devise a fresh template and circulate for comment.</p> <p>2) It was unclear whether the minutes of the last meeting had been checked and approved. LH will check whether this has been done.</p> <p>3) The Chair advised that the ICI's Refugee and Asylum Forum (RAF) had expressed an interest in sending a representative to attend the IAGCI, in the same way the IAGCI have a standing invitation to attend the RAF. In principle, all agreed that the RAF would be welcome to send an observer on a rotational basis.</p>	<p>5. CO to draft a revised template and circulate.</p> <p>6. Chair to check status of last minutes and advise accordingly.</p> <p>7. Chair/ DB to advise RAF members accordingly.</p> <p>8. Attendees to advise Chair of any suggested issues/countries which could form the fourth workstrand.</p>

Annex D1: Afghanistan Supplementary evidence provided by IAGCI reviewer after the 11 November 2016 meeting

	<p>4) The Chair put forward a series of proposals for the forthcoming work plan. All agreed that the plan should include reviews of CIGs/ CPINs relating to:</p> <p>Albania; Bangladesh; and Sri Lanka. In addition, one more piece of work should be identified and progressed. All to consider and feed in suggestions to the Chair.</p> <p>The Chair would like to commence the tender process quickly.</p>	
<p>6. Next Meeting</p>	<p>The next meeting would take place in February 2017. Dates to be confirmed.</p>	<p>9. Chair to circulate members to agree date for next meeting</p>

Country	Afghanistan
Category	Security forces,
Subject	Desertion from the Afghan National Police (ANP)
Key words	AWOL
Date of response	26/08/2015
Reference number	0815-055
<p>Disclaimer: This response was compiled and researched by the Country Policy and Information Team (CPIT) after researching publicly accessible information and/or obtaining information that can be made publicly available within time constraints. CPIT is not responsible for the accuracy, currency, impartiality or balance of the information supplied by external sources. It is not, and does not purport to be, a definitive statement of Home Office policy nor conclusive as to the merit of any particular claim for international protection or assistance. Please read in full all documents to which this country information response refers.</p>	

Information requested:

What action is taken against deserters from the Afghan National Police ?

Additional Information/Comment from reviewer:

On this point, so far no particular known case of actions against deserters are taken, however, the persons who leave their police posts, can also be targeted by anti-government forces because of the time they serve with police or govt. hence, he may not be able to come back to his home village/town due to this issue. But if he can afford to go live in another location, then the risk reduces.

Revised note (28.11.2016):

Since I am back in Kabul, I checked on this case and can confirm the above comment. Additionally, I was informed that the president issued a degree allowing the deserted soldiers to come back to the army, in case they did not violate any rule (such as selling and taking away arms with them, or violating a rule during duty). This indicates that from the government side, there will not be any particular threat against them but from anti-government side, the threat against ANP, ANA and ALP is always there.

Response:

Background: Rate of attrition

1. The Afghan National Police (ANP) operates under the Ministry of the Interior. According to the UN, the ANP had 147,077 personnel in mid-2014. It has several specialised divisions: Afghan Uniformed Police (AUP – more than 110,000 personnel); the Afghan National Border Police (ANBP); the Afghan National Civil Order Police (ANCOP); the Counter-Narcotics Police of Afghanistan (CNPA).⁵³
2. It was noted in an article dated 22 July 2015 in The New York Times:

‘Several Afghan officers described desertion [from the Afghan National Security Forces, which includes the ANP] as such a problem that soldiers and police officers in some critical areas had simply been barred from returning home on leave, keeping them on the front lines for months straight.

‘The urge to desert is often driven by more than just facing danger... Many soldiers cannot access their pay because it can be drawn only at a bank branch [far from where the soldier/police officer is stationed]. “Your family is calling you and telling you they have run out of food, but you cannot send them money,” [an army officer] said, describing the plight of soldiers who are often the sole breadwinners for large families.’⁵⁴

The New York Times recorded that casualty rates in the Afghan security forces have increased: ‘[A]fter a casualty rate last year [2014] that the previous American commander called unsustainable, the numbers this year [2015] are even worse: up more than 50 percent compared with the first six months of 2014. About 4,100 Afghan soldiers and police officers have been killed and about 7,800 wounded, according to statistics provided by an official with the American-led coalition here...’⁵⁵

Additional Information/Comment from reviewer:

This needs further update as it has got even worse by 2015

3. An article in the Washington Post of 20 October 2014 stated:

‘The Afghan National Police (ANP), which has borne the brunt of fighting against the Taliban, lost over 1,523 soldiers [between April and September.2014].

‘Desertion [from the Afghan National Security Forces] remains a running sore, with approximately 2 percent of its force going AWOL (and not returning) each month.’⁵⁶

53 European Asylum Support Office (EASO), EASO Country of Origin Information Report: Afghanistan - Security Situation, January 2015: <http://www.refworld.org/docid/54ddf8244.html>

54 New York Times: 149 Afghan Security Forces Struggle Just to Maintain Stalemate , 22 July 2015 http://www.nytimes.com/2015/07/23/world/asia/afghan-security-forces-struggle-just-to-maintain-stalemate.html?_r=0

55 New York Times: 149 Afghan Security Forces Struggle Just to Maintain Stalemate , 22 July 2015 http://www.nytimes.com/2015/07/23/world/asia/afghan-security-forces-struggle-just-to-maintain-stalemate.html?_r=0

56 The Washington Post: 149 A (fighting) season to remember in Afghanistan , 20 October 2014 <http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/10/20/a-fighting-season-to-remember-in-afghanistan/>

Annex D2: Vietnam Supplementary evidence provided by IAGCI reviewer after the 11 November 2016 meeting

4. Afghanistan Today quoted a local police (not ANP) commander in Kandahar as saying, “Every single one of these officers receives death threats from the Taliban...”⁵⁷

Action taken against deserters

5. A report published in February 2014 by the Centre for Security Governance stated:

‘Combat losses are also complemented by high losses to disease and **desertion, which has yet to be criminalized in Afghanistan. Police and military officers are able to abandon their post with impunity.** High attrition rates have made it difficult to meet recruitment and force strength targets set for the ANSF... The result is that the ANSF — and the police in particular — have a constant need to recruit large numbers in order to replenish their losses, and struggle to meet ever-increasing recruitment targets.’⁵⁸

6. CPIT was unable to find any reference to prescribed penalties for desertion from the Afghan National Police, or to any instances of deserters being prosecuted or punished.

57 Afghanistan Today: 150 Police selling arms to Taliban in Kandahar , 22 October 2014 <http://www.afghanistan-today.org/en/articles/politics/800/>

58 Centre for Security Governance: The Afghan National Security Forces Beyond 2014: Will They Be Ready? , February 2014 <http://www.ssresourcecentre.org/wp-content/uploads/2014/02/eSeminar-Primer-No.-2.pdf>

References related to Vietnam - Country Information and Guidance: Trafficking and Opposition to Government.

<http://m.state.gov/mc30840.htm>

<https://www.cia.gov/library/publications/the-world-factbook/geos/vm.html>

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsI2Y0YMjGrSfy7wV721E18VKdeE3T7cAq%2b98u1ormSza%2bEljxZ1%2feYG2C8f89XyuvblWthiXzalalZNaRseZelGcTgHLluLI2gYNkUXC7FFp>

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/131/12/PDF/G1113112.pdf?OpenElement>

http://www.unodc.org/documents/human-trafficking/UNODC_Strategy_on_Human_Trafficking_and_Migrant_Smuggling.pdf#page15

<http://app.ft.com/cms/s/864c77c2-9da0-11e5-8ce1-f6219b685d74.html>

<http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

<https://www.theguardian.com/global-development/2015/may/23/vietnam-children-trafficking-nail-bar-cannabis>

http://www.gdn.int/html/GDN_funded_papers.php?mode=download&file=Vietnam-final%20report_0b2.pdf

<http://www.migrationpolicy.org/article/humanitarian-economic-changing-face-vietnamese-migration>

<file:///C:/Users/Owner/Documents/FILES/IAGCI%202016/IAGCI%20RESPONSES%20REFS%20oct%202016/Human%20Trafficking.%20Smuggling%20and%20Slavery%20%20Legal%20Guidance%20%20Crown%20Prosecution%20Service.html>

<http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/VNIndex.aspx>

<https://www.civilrightsdefenders.org/country-reports/human-rights-in-vietnam>

OHCHR Report 2015

<http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/VNIndex.aspx>

http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/VNM.pdf

<https://www.vietnambreakingnews.com/2013/06/undp-supports-vietnams-drug-trafficking-fight/>

<https://asiafoundation.org/resources/pdfs/FINALVNTraffickingReport0808.pdf>

COMBATING HUMAN TRAFFICKING. IN VIETNAM: Lessons Learned and Practical Experiences for. Future Program Design and Implementation. 2002- 2008.

<https://www.irinnews.org/news/2016/09/02/vietnam-wakes-its-human-trafficking-problem> Sep 2, 2016 ... Vietnam has also announced a 2016 to 2020 strategy to combat human trafficking, and the plan marked the first time authorities have ...

Human Rights Watch Report 2016 – [missing html] in case it 's useful – copy here follows -

Despite renewed economic growth and progress on a number of social indicators in 2015, Vietnam's record on civil and political rights remained dismal. The ruling Communist Party has a monopoly on political power and allows no challenge to its leadership. Basic rights, including freedoms of speech, opinion, press, association, and religion, are restricted. Rights activists and dissident bloggers face constant harassment and intimidation, including physical assault and imprisonment. Farmers continue to lose land to development projects without adequate compensation, and workers are not allowed to form independent unions.

Analysts suggested that the government was trying to keep the number of political arrests and trials to a minimum in 2015 because it faced scrutiny from the United States Congress as negotiations over the Trans-Pacific Partnership (TPP) neared completion. Even so, there were many notable instances of government persecution of critics.

Police abuse received increasing attention from local media in 2015, but police still frequently torture suspects to elicit confessions and sometimes use excessive force in responding to protests over evictions, land confiscation, and other social issues. The government took no steps in 2015 to repeal laws criminalizing peaceful expression.

Government Critics and Activists

The government's crackdown on independent writers, bloggers, and rights activists deemed threatening to Communist Party rule continued in 2015.

Bloggers Nguyen Huu Vinh (known as Anh Ba Sam), Nguyen Thi Minh Thuy, and Nguyen Dinh Ngoc (known as Nguyen Ngoc Gia), arrested in 2014, remained in police custody and had still not been put on trial at time of writing.

In February 2015, the People's Court of Dong Nai province put rights activists Pham Minh Vu, Do Nam Trung, and Le Thi Phuong Anh on trial for abusing the rights to freedom and democracy to infringe upon the interests of the state, an offense under penal code article 258. They were sentenced to 18, 14, and 12 months in prison, respectively.

In April, the authorities arrested Nguyen Viet Dung for participating in a pro-tree peaceful march at Hoan Kiem lake in Hanoi and charged him with disrupting public order under article 245 of the penal code. In August, police in Thanh Hoa province arrested Dinh Tat Thang for sending out letters criticizing provincial leaders and police. He was charged under article 258. In September, police in Thai Binh province arrested former political prisoner Tran Anh Kim for activities aiming to overthrow the people's administration under penal code article 79. Tran Anh Kim had recently finished a five-year, six-month prison sentence in January 2015, also under article 79.

In September, the government temporarily suspended the sentence of prominent blogger Ta Phong Tan, who was then escorted directly from prison to Noi Bai airport for the US. As with

legal activist Cu Huy Ha Vu and blogger Nguyen Van Hai (known as Dieu Cay), who were similarly exiled to the US in 2014, Ta Phong Tan would have to serve the rest of her 10-year sentence were she to return to Vietnam.

Finally. There is the reference contained in my response, which cited only the essay and not the volume of essays from which it comes. This is –

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