



Home Office

# **Country Policy and Information Note**

## **Sri Lanka: Sexual orientation and gender identity and expression**

**Version 3.0**

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# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in [the basis of claim](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

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

## Analysis

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

- A person is reasonably likely to face a real risk of persecution or serious harm
- A person is able to obtain protection from the state (or quasi state bodies)
- A person is reasonably able to relocate within a country or territory
- Claims are likely to justify granting asylum, humanitarian protection or other form of leave, and
- If a claim is refused, it is likely or unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case’s specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation’s (ACCORD), [Researching Country Origin Information – Training Manual, 2013](#). Namely, taking into account the COI’s relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the ‘cut-off’ date in the country information section. Any event taking place or report/article published after this date is not included.

All information is publicly accessible or can be made publicly available, and is from generally reliable sources. Sources and the information they provide are carefully considered before inclusion.

Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information, and
- whether the COI is consistent with and/or corroborated by other sources.

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

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

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

## Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

## Independent Advisory Group on Country Information

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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# Analysis

Updated: 3 October 2018

## 1. Introduction

### 1.1 Basis of claim

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

### 1.2 Points to note

1.2.1 This note provides an assessment of the general situation for gay men, lesbians, bisexuals, trans and intersex persons, as well as those perceived as such. They are referred hereafter collectively as 'LGBTI persons', although the experiences of each group may differ.

1.2.2 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity issues in the asylum claim](#).

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#). Decision makers must also refer to the Asylum Instructions on [Sexual Identity Issues in the Asylum Claim](#) and [Gender identity and expression, including intersex issues in asylum claims](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

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

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### 2.2 Convention reason

2.2.1 LGBTI persons in Sri Lanka form a particular social group (PSG) within the meaning of the Refugee Convention because they share an innate characteristic or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to their identity or conscience that they should not be forced to renounce it, and have a distinct identity which is perceived as being different by the surrounding society.

2.2.2 Although LGBTI persons in Sri Lanka form a PSG, such a membership alone is not sufficient to be recognised as a refugee. The question to be addressed is whether the particular person will face a real risk of persecution on account of their actual or perceived membership of such a group.

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

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## 2.3 Exclusion

2.3.1 Decision makers must consider whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.

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

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## 2.4 Assessment of risk

### a. General points

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

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

2.4.3 If this will simply be in response to social pressures, or for cultural or religious reasons of their own choosing, then they may not have a well-founded fear of persecution.

2.4.4 But if a material reason why the person will resort to concealment is that they genuinely fear that they will be persecuted, it will be necessary to consider whether that fear is well-founded.

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

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

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### b. State treatment

2.4.7 Although consensual same-sex sexual activity is criminalised in Sri Lanka, sources report that cases are rarely prosecuted. No laws specifically criminalise transgender or intersex people in Sri Lanka. However, there are reports of the police using other laws to criminalise and harass LGBTI persons, particularly transgender women and men who have sex with men involved in sex work (see [Legal context](#) and [State attitudes and treatment](#)).

- 2.4.8 Transgender women and women of lower economic status report that police have sometimes used the Vagrants Ordinance of the Sri Lanka Penal Code (that prohibits loitering in public) to detain them (see [Legal rights](#) and [State attitudes and treatment – Arrests and detention](#)).
- 2.4.9 In the country guidance case [LH and IP \(gay men: risk\) Sri Lanka CG \[2015\] UKUT 00073 \(IAC\)](#), promulgated on 18 February 2015 (heard on 6–8 August 2014) the Upper Tribunal found that in general the treatment of gay men in Sri Lanka does not amount to persecution or serious harm (para 123(3)).
- 2.4.10 The findings in LH and IP were in part based on the US State Departments Human Rights report of 2013. Subsequent reports by the US State Department including the most recent 2017 have maintained the same position. The 2014 report also included reference to 2 reports. These reports were based on information gathered between 2010 and 2012 on a sample of 33 individuals. The reports confirm the position held in the 2013 and subsequent US State Department reports that the police sometimes detained, harassed, extorted money from and assaulted members of the LGBT community. These reports provide some context, albeit using a small sample size, of the treatment sometimes faced by members of the LGBT community but do change the position of the previous US State Department report and do not warrant a departure from the findings made in [LH and IP](#).
- 2.4.11 Current country evidence does not indicate that the incidents of harassment are generally sufficiently serious by their nature and repetition as to amount to persecution or serious harm (see [Country information](#)).
- 2.4.12 In general, there is no real risk of state persecution as the authorities do not actively seek to prosecute LGBTI persons and there is no real risk of prosecution even when the authorities become aware of such behaviour.
- 2.4.13 Decision makers must consider each case on its facts with the onus on the person to demonstrate that they would be at real risk from the state authorities on return.

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#### c. Societal treatment

- 2.4.14 LGBTI persons frequently face discrimination in accessing employment, housing and health services. Sexual harassment at work and hate speech and vilification of LGBTI communities by media and public officials is reported to be common (see [Access to services](#) and [Public statements by government officials](#)).
- 2.4.15 There are also reports that some LGBTI persons experience sexual, emotional and physical violence, particularly in the home environment but also in public spaces. The level of harassment may differ from urban to rural areas (see [Societal attitudes and treatment](#) ).
- 2.4.16 Sri Lanka's online LGBTI community has increased, particularly on social media sites such as Facebook, which are seen as safe areas for socialising and organising dates. Freedom of speech has allowed for LGBTI issues to be discussed openly by the media. Certain people have established high profiles through this method, while others have chosen to adopt fake profiles (see [LGBT websites and online access](#)).



- 2.4.17 Some LGBTI persons do enjoy a degree of openness within their immediate social and/or family circles provided their sexual orientation does not become known outside of these close circles. Most LGBTI persons do not live openly as LGBTI due to the social stigma attached. Lesbian/bisexual women and Transgender persons may face a higher risk of ill treatment at the hands of their family who may use physical and emotional violence as punishment to force gender conformity (see [Family treatment](#)).
- 2.4.18 The Upper Tribunal in [LH and IP](#) found that there is a ‘significant population of homosexuals and other LGBT individuals in Sri Lanka, in particular in Colombo’ and that ‘while there is more risk for lesbian and bisexual women in rural areas, because of the control exercised by families on unmarried women, and for transgender individuals and sex workers in the cities, it will be a question of fact whether for a particular individual the risk reaches the international protection standard, and in particular, whether it extends beyond their home area.’ (Para 123(4)).
- 2.4.19 In general, the level of societal discrimination and abuse faced by LGBTI persons in Sri Lanka is not sufficiently serious by its nature and repetition as to amount to persecution or serious harm. However, decision makers must consider whether there are particular factors relevant to the person which might make the treatment serious by its nature or repetition.
- 2.4.20 Each case must however be considered on its facts with the onus on the person to demonstrate that they would be at real risk on return.
- 2.4.21 For further guidance on assessing risk, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.4.22 Decision makers must also refer to the Asylum Instructions on [Sexual identity issues in the asylum claim](#) and [Gender identity and expression, including intersex issues in asylum claims](#).

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## 2.5 Protection

- 2.5.1 If the person’s fear is of persecution or serious harm by the state, they will not be able to obtain protection.
- 2.5.2 If the person’s fear is of serious harm or persecution at the hands of non-state agents or rogue state agents, although the state is able to provide protection, in practice it is not always willing.
- 2.5.3 There are no legal safeguards to prevent discrimination based on sexual orientation or gender identity. Incidents of homophobia frequently go unreported due to people wanting to protect their identities. Police often misinterpret the laws on the basis of a person’s appearance or behaviour and there have been reports of police assaulting, harassing and extorting money or sexual favours from LGBTI persons, particularly in Colombo as well as other areas (see [State attitudes and treatment](#)).
- 2.5.4 The lack of anti-discrimination legislation to protect the rights of LGBTI persons has meant that they have no recourse to a remedy when particular laws are used against them in a discriminatory manner. Such discrimination is further enabled and promoted by the continued criminalisation and,

therefore, stigmatisation of LGBTI persons. LGBTI persons who are the victims of violence or hate crimes will often not report these crimes to the police without fear that their sexual orientation or gender identity or expression will be exposed or highlighted. This can lead to further discrimination and marginalization and to potential prosecution under articles 365 and 365A of the Penal Code (see [Law in practice](#)).

- 2.5.5 Whilst there is some evidence of police providing a degree of protection at public events, such as LGBTI marches, in general effective protection in individual cases is very limited (see [Police responses to reports of anti-LGBT violence](#) and [Pro-LGBT marches/gay pride](#)).
- 2.5.6 A person's reluctance to seek protection does not mean that it is not available. Decision makers need to consider each case on its facts. The onus is on the person to demonstrate why they would not be able to seek and obtain state protection.
- 2.5.7 For further guidance on assessing the availability or not of state protection, see the [Asylum Instruction on Assessing Credibility and Refugee Status and Gender identity and expression, including intersex issues in asylum claims](#).

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## 2.6 Internal relocation

- 2.6.1 If the person's fear is of persecution or serious harm by the state, internal relocation is not a reasonable option.
- 2.6.2 If the person's fear is of persecution or serious harm by a non-state actor, decision makers should consider each case on its individual circumstances to ascertain if this is localised and could be removed by internal relocation.
- 2.6.3 Sri Lanka has a total land area of 65,610 sq. km and an estimated population of 22,409,381. The law allows for freedom of internal movement and the government has generally respected these rights, although security checkpoints and roadblocks still occur in parts of the country.
- 2.6.4 The Upper Tribunal in [LH and IP \(gay men: risk\) Sri Lanka CG \[2015\] UKUT 00073 \(IAC\)](#) found that internal relocation would normally be sufficient to enable an individual to avoid the risk of serious harm/persecution since risks are usually from family, friends or neighbours especially for gay men, particularly if they relocated to the more 'gay-friendly' cities such as Colombo (paragraph 119) The Tribunal went onto find that "where a risk of persecution or serious harm exists in an appellant's home area, there may be an internal relocation option, particularly for individuals returning via Colombo from the United Kingdom" (paragraph 123(5)).
- 2.6.5 Internal relocation will not be an option if it depends on the person concealing their sexual orientation and / or gender identity in the proposed new location for fear of persecution. This will not be the case if the person does so simply in response to social pressures, or for cultural or religious reasons of their own choosing. Each case must be considered on its facts with the onus will be on the person to demonstrate why relocating internally to another part of the country is unreasonable or unduly harsh.

- 2.6.6 For further guidance on considering internal relocation and the factors to be considered, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#). Decision makers must also refer to the Asylum Instruction on [Sexual identity issues in the asylum claim](#) and [Gender identity and expression, including intersex issues in asylum claims](#).

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## 2.7 Certification

- 2.7.1 Where a claim is refused, it is unlikely to be certifiable as ‘clearly unfounded’ under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.7.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

Updated: 3 October 2018

## 3. Legal context

### 3.1 Constitution

#### 3.1.1 Article 12 of the Constitution states:

‘(1) All persons are equal before the law and are entitled to the equal protection of the law.

‘(2) No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds:

‘Provided that it shall be lawful to require a person to acquire within a reasonable time sufficient knowledge of any language as a qualification for any employment or office in the Public, Judicial or Local Government Service or in the service of any Public Corporation, where such knowledge is reasonably necessary for the discharge of the duties of such employment or office:

‘Provided further that it shall be lawful to require a person to have a sufficient knowledge of any language as a qualification for any such employment or office where no function of that employment or office can be discharged otherwise than with a knowledge of that language.

‘(3) No person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to shops, public restaurants, hotels, places of public entertainment and places of public worship of his own religion.’<sup>1</sup>

#### 3.1.2 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated:

‘Article 12(2), which prohibits discrimination on the basis of various grounds, does not include sexual orientation or gender identity among the grounds upon which discrimination is prohibited. In 2014, the Government of Sri Lanka made the unprecedented and very welcome statement to the Human Rights Committee that Article 12 of the Constitution does protect persons from discrimination on the basis of sexual orientation and gender identity. However, particularly given the retention of laws criminalizing same-sex sexual conduct and the well-entrenched societal attitudes hostile to sexual minorities, Sri Lanka needs to amend its Constitution to explicitly prohibit discrimination on the grounds of sexual orientation and gender identity, in order to send a strong signal that these forms of discrimination are outlawed.’<sup>2</sup>

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<sup>1</sup> The Parliament of Sri Lanka, ‘The Constitution’, 2015, [url](#).

<sup>2</sup> Equal Ground, ‘Report’ (p. 5), May 2017, [url](#).

## 3.2 Legislation

- 3.2.1 Same-sex sexual acts are illegal in Sri Lanka<sup>3</sup>.
- 3.2.2 As specified in the Human Rights Watch report, "All Five Fingers Are Not the Same" - Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka, 15 August 2016:
- 'No laws specifically criminalize transgender or intersex people in Sri Lanka. But no laws ensure that their rights are protected, and police have used several criminal offenses and regulations to target LGBTI people, particularly transgender women and MSM [men who have sex with men] involved in sex work. These include a law against "cheat[ing] by personation," and the vaguely worded Vagrants' Ordinance that prohibits soliciting or committing acts of "gross indecency," or being "incorrigible rogues" procuring "illicit or unnatural intercourse".'<sup>4</sup>
- 3.2.3 A Shadow Report to the UN Human Rights Committee regarding Sri Lanka's protection of the Rights of LGBTI Persons (Response to List of Issues) Compiled by the Kaleidoscope Human Rights Foundation with the assistance of DLA Piper International LLP and Sri Lankan LGBTI Advocacy Groups, dated September 2014, stated 'While there has been social traction in Sri Lanka towards recognition of the rights of sexual minorities, there has been a lack of Government support or action. Consequently, there is no legal recognition and protection of the rights of LGBTI individuals.'<sup>5</sup>
- 3.2.4 The Human Rights Watch World Report 2018 - Sri Lanka, 18 January 2018, stated 'The government failed to make progress during the year toward implementing a 2016 plan forwarded by the Ministry of Health to establish a clear procedure for transgender people to change their identity documents.'<sup>6</sup>

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## 3.3 Penal Code

- 3.3.1 A copy of the Sri Lankan [penal code](#) can be accessed via the [UNHCR Refworld website](#). Section 365 (unnatural offences) of which states:
- 'Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be punished with fine and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall [sic] also be ordered to pay compensation of an amount - determined by court to the person in respect of whom the offence was committed for injuries caused to such person.'<sup>7</sup>
- 3.3.2 Section 365A of the [Penal Code](#) states:

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<sup>3</sup> ILGA, 'State-Sponsored Homophobia', (p.39), May 2017, [url](#).

<sup>4</sup> HRW, "All Five Fingers Are Not the Same" (p. 3), 15 August 2016, [url](#).

<sup>5</sup> Kaleidoscope, 'Report' (pgs 1 and 4), September 2014, [url](#).

<sup>6</sup> HRW, 'World Report 2018', 18 January 2018, [url](#).

<sup>7</sup> National Legislative Bodies/National Authorities, 'Penal Code', 1 January 1885, [url](#).

‘Any person who, in public or private, commits, or is a party to the commission of, or procures or attempts procure the commission by any person of, any act of gross indecency with another person, shall he [sic] guilty of an offence, and shall be punished with imprisonment of either description, for a term which may extend to two years or with fine or with both and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person.’<sup>8</sup>

3.3.3 Human Rights Watch’s World Report 2018 (18 January 2018), stated:

‘State and non-state discrimination against the lesbian, gay, bisexual, transgender and intersex (LGBTI) population persisted. Sections 365 and 365A of the penal code prohibit “carnal knowledge against the order of nature” and “gross indecency,” commonly understood in Sri Lanka to criminalize same-sex relations between consenting adults. At a UN review in November, Sri Lanka rejected recommendations to repeal sections 365 and 365A.’<sup>9</sup>

3.3.4 The Australian Government’s Department for Foreign Affairs and Trade’s (DFAT) ‘Country Report for 2018’ (the 2018 DFAT Report) noted that ‘Under Section 365 of the Penal Code, “carnal intercourse against the order of nature” or “acts of gross indecency” can attract sentences of up to 10 years’ imprisonment and a fine.’<sup>10</sup>

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## 3.4 Rights to change legal gender

3.4.1 In July 2016, delegates from a UK Home Office Fact Finding Mission to Sri Lanka (the 2016 UK FFM) met with a representative from Equal Ground (EG), a non-profit organisation seeking human and political rights for LGBT community of Sri Lanka. The FFM delegates asked whether transgender persons were recognised by the state and were informed that ‘Up until about 2013 Transgenders could have their papers changed with the registrar without too much of a hassle. Then more and more transgenders wanted to change their papers, and the Registrar decided that they were going to put a stop to this, and basically said that if the government does not rule on this then they are not going to do any more name changes on documents.’<sup>11</sup>

3.4.2 Equal Ground added:

‘Currently EG are working with the Sri Lanka Human Rights Commission (SLHRC) to produce a certificate that transgenders can have access to, which will be issued by psychiatrists to say that the person is indeed a transgender person and in need of documentation changes, such as birth certificates, national ID cards and passports. However, EG are at

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<sup>8</sup> National Legislative Bodies/National Authorities, ‘Penal Code’, 1 January 1885, [url](#).

<sup>9</sup> HRW, ‘World Report 2018’, 18 January 2018, [url](#).

<sup>10</sup> DFAT ‘Country Report’ (Para 3.101), 23 May 2018, [url](#).

<sup>11</sup> UK Home Office’s, ‘Fact Finding Mission to Sri Lanka’ (p. 52), 11 – 23 July 2016, [url](#).



loggerheads because they are trying to certify that people have indeed gone through gender confirming surgeries. But EG maintain that it shouldn't depend on that only, because it is forcing sterilisation on somebody – that is number one. Number two, is that the surgeries are very expensive in Sri Lanka and most transgender persons cannot afford it. It is available, but it is easier for female to male transgender because these are routine operations; mastectomies and hysterectomies, those are just the basic operations. But phalloplasty operations for female to male transgender is not available.<sup>12</sup>

- 3.4.3 Human Rights Watch's August 2016 report stated: 'While it is not impossible to change one's legal gender in Sri Lanka, there is no clear and simple procedure. Dr. Chithramalee de Silva, director of Mental Health at the Ministry of Health, was not aware of any existing standard process by which people may change their legal gender. Dr. de Silva is collaborating with the National Human Rights Commission to develop a gender recognition certificate.'<sup>13</sup>
- 3.4.4 A joint Parallel Report to the UN Committee on the Elimination of Discrimination against Women regarding Sri Lanka's Protection of the Rights of LGBTI Persons by Kaleidoscope Human Rights Foundation and Equal Ground, Sri Lanka, observed: '[T]ransgender persons in Sri Lanka often have a difficult time obtaining official documentation that reflects their preferred name and gender. This means that transgender persons are effectively prevented from accessing an accurate national identity card or passport.'<sup>14</sup>
- 3.4.5 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ [Lesbian, Gay, Bisexual, Transgender, Intersex, Queer/Questioning] people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated: 'Sri Lanka fails to respect the gender identity of transgender people by failing to enact into law an administrative procedure whereby transgender individuals can obtain, upon simple request, identity documents that match their name and gender identity. At present, in order to obtain revised identity documents, transgender individuals must undergo psychiatric evaluation, hormone therapy and surgical treatments, which may or may not be wanted and, if wanted, may not be available due to issues of access and cost. As a result, many transgender individuals have not been able to obtain national identity cards and other official documents that accurately reflect their name and gender identity, leaving them vulnerable to humiliation, discrimination, harassment and the possibility of violence at each of the many times in daily life when such documents must be presented.'<sup>15</sup>
- 3.4.6 The Bertelsmann Stiftung's Transformation Index (BTI) Country report on democracy, economy and political management (covering the period from February 1, 2015 to January 31, 2017), stated: 'The state has proposed a procedure by which transgender people could change the gender on their

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<sup>12</sup> UK Home Office's 'Fact Finding Mission to Sri Lanka' (p. 52), 11 – 23 July 2016, [url](#).

<sup>13</sup> HRW, "All Five Fingers Are Not the Same" (p. 21/22), 15 August 2016, [url](#).

<sup>14</sup> Kaleidoscope and Equal Ground, 'Report' (pg 7), 2017, [url](#).

<sup>15</sup> Equal Ground, 'Report' (p. 2), May 2017, [url](#).

documents after a report from a mental health professional but there is scant evidence that this is in use.’<sup>16</sup>

- 3.4.7 In a letter dated 27 August 2018 the British High Commission in Colombo stated that “there are some improvements. Individuals are now able to have their change of gender recognised. A Gender Recognition Certificate (GRC) can be applied for which then enables the issuance of a new passport and National Identity Card. The British High Commission, Colombo, met someone who has gone through this process and who advised that it was handled in a relatively short period of time. The only drawback is that the new passport carries an 'endorsement' that states that the bearer is a transgender person whose previous passport was issued under such name and such gender marker”.<sup>17</sup>

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## 4. State attitudes and treatment

### 4.1 Law in practice

- 4.1.1 A Shadow Report to the UN Human Rights Committee regarding Sri Lanka's protection of the Rights of LGBTI Persons (Response to List of Issues) Compiled by the Kaleidoscope Human Rights Foundation with the assistance of DLA Piper International LLP and Sri Lankan LGBTI Advocacy Groups, dated September 2014, stated “[...] there continue to be reports of widespread discrimination, harassment and violence directed towards members of the LGBTI communities within Sri Lanka.”<sup>18</sup>
- 4.1.2 In November 2016, the Sri Lankan Supreme Court heard a case in which an accused appellant was charged along with another accused before the Magistrates Court for “committing an act of gross indecency between two persons in terms of Section 365A of the Penal Code”. The Magistrate had found the Appellant and the other accused guilty and imposed a term of imprisonment of one year and imposed a fine of Rs. 1,500 with a default sentence of six months. The Supreme Court heard all the evidence again and determined that the sentence of the one year term of imprisonment should be set aside and substituted with a sentence of 2 years rigorous imprisonment, suspended for a period of 5 years<sup>19</sup>.
- 4.1.3 Attorney-at-law Dushantha Kularathne, however, told Roar (an online media platform covering current affairs, business, lifestyle, technology, arts, and culture in South Asia), that:
- ‘homosexuality in Sri Lanka is definitely an offence, but conceded that it is indeed open to interpretation. [...] Homosexuality, among other things, comes under “unnatural offences” or acts of a sexual nature that go against nature, as per section 365 of the Penal Code. According to Kularathne, however, no cases have been reported of anyone actually being prosecuted for being gay. [...]

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<sup>16</sup> BTI, ‘Country Report’, 2018, [url](#).

<sup>17</sup> See Annex A.

<sup>18</sup> Kaleidoscope, ‘Report’ (pgs 1 and 4), September 2014, [url](#).

<sup>19</sup> Sri Lankan, Supreme Court case- SC Appeal No.32/11, 30 November 2016 [url](#).



'In other words, the law exists but it's not implemented? Not exactly, says Kularathne. "I can't say that it's not implemented. It can be implemented. It's just that our courts of law and our police officers don't go up to the extent of implementing it as it is – as it's set out in the law," he said. When asked for any examples, Kularathne said that although he has not heard of anyone been prosecuted solely for being gay, there have been cases in high court for unnatural offences that included acts of a homosexual nature carried out without consent. "But with consent I have not seen a single case to date. That is very unlikely to happen. Those sort of prosecutions never happen" said Kularathne. "Not that it cannot happen – it can," he hastened to add, "but not to my knowledge."<sup>20</sup>

4.1.4 As reported by The Wire in January 2017:

'Sri Lanka's cabinet rejected a proposal to end discrimination based on sexual orientation because it could legitimise homosexuality, which is illegal on the island, a government minister said on Wednesday, January 18...

'Health minister Rajitha Senaratne said the cabinet had refused to endorse a provision in a proposed human rights plan that would have undermined the code. "There was a provision referring to the sexual orientation of individuals and we clearly said it was not acceptable," said Senaratne, who is also the government spokesman. "The government is against homosexuality, but we will not prosecute anyone for practising it," the minister said, adding that the island's conservative Buddhist clergy was also opposed to the provision. He said the proposed National Human Rights Action Plan included a provision to remove "discrimination based on sexual orientation".' The article added: 'Rights activists say although there have been no known prosecutions in recent decades, Article 365 of the penal code is discriminatory and stigmatises homosexuality.'<sup>21</sup>

4.1.5 In January 2017, the Sri Lanka Brief reported that a statement by the National Peace Council in response to the government's decision not to proceed with legal reform that decriminalizes homosexuality, said: 'We note that same sex relations are rarely if ever prosecuted in the Sri Lankan courts.'<sup>22</sup>

4.1.6 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated 'The lack of any Constitutional protection or anti-discrimination laws or policies has exposed LGBTIQ individuals to pervasive discriminatory treatment in all aspects of daily life, including employment, housing, health care, education and law enforcement.'<sup>23</sup>

4.1.7 The Women and Media Collective report 'Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online' published in December 2017 noted that '[...] due to the generally private contexts in which most sexual

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<sup>20</sup> Roar, 'Sri Lanka Officially Refuses To Go Gay', 19 January 2017, [url](#).

<sup>21</sup> The Wire, 'Sri Lanka Scuttles Move to Legitimise Homosexuality', 19 January 2017, [url](#).

<sup>22</sup> Sri Lanka Brief, 'Protection of minority rights must include sexual minorities', 30 January 2017, [url](#).

<sup>23</sup> Equal Ground, 'Report' (p. 6), May 2017, [url](#).

acts take place, Sections 365 and 365A are nearly ineffective against the criminalised acts themselves. Still, even without enforcement, the laws act to suppress the identities and relationships of people with alternative sexual orientation and/or gender identities.<sup>24</sup>

- 4.1.8 The 2018 DFAT Report noted that ‘[...] Police have arrested individuals under this section [Section 365 of the Penal Code] but no prosecutions have occurred since independence in 1948. Police allegedly use Section 399 of the Penal Code or the Vagrants Ordinance to threaten, harass, extort money and sex, arrest and detain LGBTI individuals.’<sup>25</sup>
- 4.1.9 In a letter dated 27 August 2018 the British High Commission in Colombo stated that “[...] same sex relations are illegal but the FCO is not aware of any prosecutions. There have been no reports of those identifying as LGBT having their homes/hotel rooms raided by police”.<sup>26</sup>

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## 4.2 Arrests and detention

- 4.2.1 The Asian Mirror reported in 2016 that ‘Police lead a crackdown on suspected lesbians across the country in January 2016 which lead to a couple in Avissawella, south Sri Lanka, being arrested and interrogated.’<sup>27</sup>
- 4.2.2 In July 2016, delegates from the 2016 UK FFM met with a representative from Equal Ground (EG), a non-profit organisation seeking human and political rights for LGBT community of Sri Lanka. The FFM delegates asked whether LGBTI persons are detained: ‘LGBTI persons are detained all the time, detained without any charges being filed. Mainly detained so that money or sexual favours can be obtained from the person [by the police]. If it is not given then they are beaten, raped or blackmailed.’<sup>28</sup>
- 4.2.3 The same organisation further noted after being asked whether a person detained by the police would be asked for sexual favours:
- ‘Yes, mainly from male on male, female and on transgenders. The representative had not heard of any female police officer raping or sexually abusing any male or female prisoner. But there have been reports that Transgender women and men have been raped while in custody.’
- ‘LGBTI persons and female sex workers, face an additional sexual abuse pattern [on arrest]. A heterosexual thief for example might get beaten up but there may not be any sexual abuse. But for a sex worker or LGBTI persons, sexual abuse is almost always on the table.’<sup>29</sup>
- 4.2.4 The 2016 HRW Report stated: ‘LGBTI people arrested based on their gender expression, gender identity, or sexual orientation are typically detained without proper cause or evidence, and consequently are rarely detained for extended periods of time. As a result, they may have less

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<sup>24</sup> Women and Media, ‘Report’ (pg 23), December 2017, [url](#).

<sup>25</sup> DFAT ‘Country Report’ (Para 3.101), 23 May 2018, [url](#).

<sup>26</sup> See Annex A.

<sup>27</sup> Asian Mirror, Sri Lankan Police Launch Crackdown On Suspected Lesbians, 22 January 2016, [url](#).

<sup>28</sup> UK Home Office’s, ‘Fact Finding Mission to Sri Lanka’ (p. 51), 11 – 23 July 2016, [url](#).

<sup>29</sup> UK Home Office’s, ‘Fact Finding Mission to Sri Lanka’ (p. 54), 11 – 23 July 2016, [url](#).

overall exposure to police officials in detention and may experience less abuse than Sri Lankans arrested for other crimes.’<sup>30</sup>

4.2.5 Kajal, a South Asian magazine, reported in March 2018 that: ‘Public spaces in Sri Lanka are heavily policed for “decency,” and LGBTQ people face arrest or extortion if they are caught.’<sup>31</sup>

4.2.6 The 2018 DFAT Report stated that: ‘Police allegedly use Section 399 of the Penal Code or the Vagrants Ordinance to threaten, harass, extort money and sex, arrest and detain LGBTI individuals. Reporting of police abuse against LGBTI individuals is low. Many reported cases occur in Colombo. Transgender individuals, sex workers and the poor are most vulnerable.’<sup>32</sup>

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### 4.3 Police harassment and violence

4.3.1 A 2014 report by Kaleidoscope noted: ‘Reports from local LGBTI groups indicate that hate crimes are a common occurrence in Sri Lanka, where the victims have been targeted on account of their sexual orientation, gender identity or expression. Examples of such incidents include death threats, sexual assault, rape, physical attacks, as well as emotional and psychological abuse by public and private actors. It must be noted that there is an absence of reported data which has resulted in the invisibility of the nature and forms of violence that can affect these communities.’<sup>33</sup>

4.3.2 The US LGBTI blog Towlerroad noted in an interview with an anonymous author from Sri Lanka that “[...] the police often harass gays. For example, they target places gays use to meet like parks, beaches and public toilets and frighten them into paying a bribe, sometimes physically assaulting them.”<sup>34</sup>

4.3.3 Outright International, following its study of interviewing 33 LBTs, published its findings in May 2016 and noted that:

‘The interviews revealed that 13 out of 33 interviewees had experienced violence from state officials, mainly the security forces and the police. Violence committed by state officials renders lesbians, bisexual women and transgender people vulnerable in particular ways. For instance, in such cases, reporting the violence is not a straightforward option because of fear of reprisals including the potential for being charged with homosexuality or otherwise criminalized for one’s gender identity or gender expression.’<sup>35</sup>

4.3.4 The Human Rights Watch report of August 2016, stated:

‘[...] nearly two dozen of the LGBTI people whom Human Rights Watch interviewed said they had suffered sexual, physical, or severe verbal abuse by the Sri Lankan police—nearly all of those reporting police abuse being

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<sup>30</sup> HRW, “All Five Fingers Are Not the Same”, 15 August 2016, [url](#).

<sup>31</sup> Kajal, ‘New Study Recommends How to Keep LGBTQ Sri Lankans Safe Online’, 1 March 2018, [url](#).

<sup>32</sup> DFAT, ‘country report’ (para 3.101), 23 May 2018, [url](#).

<sup>33</sup> Kaleidoscope, ‘Report’ (p. 8), September 2014, [url](#).

<sup>34</sup> Towlerroad, ‘Travel Diary’, 16 March 2015, [url](#).

<sup>35</sup> Outright International, ‘Violence: Through the lens of LBT people’ (p. 24), 6 May 2016, [url](#)

transgender people or men who have sex with men (MSM). More than half of this group said that police had detained them without cause at least once.’

‘Seven LGBTI people told Human Rights Watch that police officers raped, threatened to rape, sexually assaulted, or sexually harassed them.’

‘Several people described police officers physically abusing them.’<sup>36</sup>

- 4.3.5 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated:

‘Although there have been no convictions under §§ 365 and 365A since 1948, these laws (as well as § 399 and the Vagrants Ordinance, under which there have been convictions) still have the effect of perpetuating discrimination, harassment, violence, and unequal treatment of LGBTIQ individuals. These laws serve as a pretext for denying LGBTIQ individuals a range of rights to which they are entitled under the Covenant, and they legitimize the stigma of LGBTIQ individuals, who face pervasive societal discrimination. Police officers have used threats of prosecution under these laws to harass and extort LGBTIQ individuals, and the existence of these laws makes LGBTIQ crime victims unwilling to report crimes to the police.’<sup>37</sup>

- 4.3.6 In January 2018, an article by the Sri Lankan daily Mirror noted ‘A mapping study recently conducted by Equal Ground ...shows that 46.7% of LGBT people experience police harassment.’<sup>38</sup>

- 4.3.7 The 2018 USSD report noted ‘Although prosecutions have been rare, human rights organizations reported police used the threat of arrest to assault, harass, and sexually and monetarily extort LGBTI individuals.’<sup>39</sup>

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#### 4.4 Police responses to reports of anti-LGBT violence

- 4.4.1 Outright International, following its study of interviewing 33 LBTs, published its findings in May 2016 and noted that:

‘This research thus suggests that incidents of physical violence, both in the public and private spheres, remain under-reported and undocumented, and that LBT people who experience physical violence rarely seek compensation, redress or even counselling from mental health service providers who work with women who have experienced violence – such as domestic violence programs or support groups.’

‘When they were the victims of violence in a public space, such as on the street, at community gatherings, in public transport, or at the workplace – and targeted for their gender non-conformity or sexual orientation – there was reluctance to report the violence for fear of being personally exposed as LBT. Even when the crime is not related to their sexuality or gender identity, LBT individuals feel vulnerable because of a Penal Code provision that can be read to criminalize adult consensual same-sex sexual activity. In fact,

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<sup>36</sup> HRW, ‘All Five Fingers Are Not the Same’ (p. 30-32), August 2016, [url](#).

<sup>37</sup> Equal Ground, ‘Report’ (p. 3), May 2017, [url](#).

<sup>38</sup> Daily Mirror, ‘Counting in LGBT’, 22 January 2018, [url](#).

<sup>39</sup> USSD ‘Human Rights Report’ (Section 6), 20 April 2018, [url](#).

some of the LBT people we spoke to specifically cited both Section 365A of the Penal Code and the Vagrants Ordinance as reasons used to target them for arrest and harassment.’

‘Police in Sri Lanka are generally perceived by the LBT community as dangerous. A reason for this perception is that police officers use blackmail and violence against people who they perceive to be homosexual, bisexual or transgender.’

‘In this context, interviews revealed that LBT persons doubted the possibility of getting redress for violence by police.’

‘Additionally, the court system in Sri Lanka is generally not victim-friendly. Court hearings are open to the public, which deters most people from reporting violence they experience to the police so as to avoid going to court. They fear that their sexual orientation and gender identity could be exposed in open court when the reasons for the violence are revealed. Furthermore, as mentioned earlier in this chapter, the Human Rights Commission, the Police Commission, the Public Services Commission, and the Judicial Services Commission are not trusted to function independently since these commissions are made up of presidential appointees.’<sup>40</sup>

- 4.4.2 The UK FFM delegates asked Equal Ground whether the government, police or judiciary provided LGBTI persons with security and justice, but were told:

‘No they do not. But during the 2016 Pride celebration there were a lot of threats from Sinhala Buddhist nationalists particularly towards a public event Equal Ground (EG) was planning to hold to publicise Colombo Pride 2016. EG made a complaint to a police station about the threats, and plain clothes police officers were sent to protect them. The police took no action against the Buddhist nationalists. The Buddhist nationalists never turned up, but all threats are taken seriously... On an individual basis police do not protect. In fact, they are the main perpetrators of violence and discrimination against LGBTI persons.’<sup>41</sup>

- 4.4.3 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated ‘Sri Lanka continues to criminalize adult, consensual same-sex sexual conduct. This leads to arbitrary arrests and detentions, police harassment and acts of extortion, reluctance on the part of LGBTIQ people to report crimes to the police, and, more generally, the perceived legitimization of violence and discrimination based on sexual orientation and gender identity.’<sup>42</sup>

- 4.4.4 For further information see also [Anti-LGBT protests](#)

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<sup>40</sup> Outright International, ‘Violence: Through the lens of LBT people’ (pp. 25/26), 6 May 2016, [url](#)

<sup>41</sup> UK Home Office’s ‘Fact Finding Mission to Sri Lanka’ (p. 51), 11 – 23 July 2016, [url](#).

<sup>42</sup> Equal Ground, ‘Report’ (p. 2), May 2017, [url](#).



## 4.5 Public statements by government officials

- 4.5.1 A joint Parallel Report to the UN Committee on the Elimination of Discrimination against Women regarding Sri Lanka's Protection of the Rights of LGBTI Persons by Kaleidoscope Human Rights Foundation and Equal Ground, Sri Lanka, observed that in 2016: 'LGBT Weekly recently reported that a Sri Lankan Government minister categorically ruled out allowing same-sex couples to marry in Sri Lanka in a statement to newspaper editors. Sri Lankan politician, Nalinda Jayatissa, stated 'I am totally against lesbian, gay, bisexual and transsexual rights. This is not the need of the human being.' He also added that '[s]ame sex marriage is unnatural. It is against the evolution of the human being.'<sup>43</sup>
- 4.5.2 International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) stated in their May 2017 'State Sponsored Homophobia' report that:  
  
'In a January 2017 interview the Minister for Justice, basing his argument on the religious nature of Sri Lankan society has said regarding 365 and 365A, "under no circumstance are we going to change that law". Elsewhere he called "homosexuality" a "mental disorder", a comment that initiated public outcry. There are pressing concerns, that despite earlier consultations, there appears to be moves to remove references to sexual orientation and gender identity from the nation's National Human Rights Action Plan for 2017-2021.'<sup>44</sup>
- 4.5.3 In December 2017, the United Nations in their Universal Periodic Review criticised the Government of Sri Lanka for criminalising homosexuality<sup>45</sup>. Responding to this report, Nerin Pulle, Sri Lanka's Deputy Solicitor General said stated that "[...] the government is committed to reforming the Penal Code to ensure that all offences contained in the Code are in compliance with international human rights standards. The government is committed to ensuring that no provision in the law would be applied to persons of the LGBTIQ community in a discriminatory manner. Despite social, political and cultural challenges that remain with respect to reforming law, Sri Lanka remains committed to law reform and guaranteeing non-discrimination on the grounds of sexual orientation and gender identity."<sup>46</sup>

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## 4.6 Ombudsman/Complaints mechanism(s)

- 4.6.1 A Shadow Report to the UN Human Rights Committee regarding Sri Lanka's protection of the Rights of LGBTI Persons (Response to List of Issues) Compiled by the Kaleidoscope Human Rights Foundation with the assistance of DLA Piper International LLP and Sri Lankan LGBTI Advocacy Groups, dated September 2014, stated:  
  
'The broader exclusion of the rights of LGBTI persons within the national legal framework restricts their ability to obtain protection by the State and

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<sup>43</sup> Kaleidoscope and Equal Ground, 'Report' (pg 5), 2017, [url](#).

<sup>44</sup> ILGA, 'World Survey' (p. 137), May 2017, [url](#).

<sup>45</sup> United Nations, 'Periodic Review', 29 December 2017, [url](#).

<sup>46</sup> Gay Times, 'Sri Lanka to decriminalise homosexuality ...', 23 November 2017, [url](#).

redress in the event of a human rights violation. For instance, although the NHRC [National Human Rights Commission of Sri Lanka] can investigate complaints of human rights violations, the violations are restricted to those contrary to “fundamental rights”, being those protected by the Constitution. Furthermore, an application to the Supreme Court for a remedy can only be made for violations of those fundamental rights.’<sup>47</sup>

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#### 4.7 Intersex persons

- 4.7.1 CPIT was unable, within the sources consulted, to find any information on the state treatment of intersex persons.

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### 5. LGBT population

- 5.1.1 The number of LGBT persons in Sri Lanka could be as high as 5 percent of the population, according to a Daily Mail article, published in January 2018. The article noted:

‘A mapping study recently conducted by Equal Ground reported that 19.6% percent of people over 18 living in Colombo, Matara, Nuwara Eliya & Galle identify as LGBT. This may seem a rather large proportion and the report does mention that this number may be slightly skewed for the simple reason that the enumerators conducting the mapping were “LGBTIQ” [lesbian, gay, bisexual, transgender/transsexual, intersex and queer/questioning] friendly and therefore approached more LGBTIQ persons for the study. It also mentions that LGBT persons felt more comfortable with these enumerators and therefore felt free to identify themselves.’<sup>48</sup>

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### 6. Societal attitudes and treatment

#### 6.1 Societal norms

- 6.1.1 The US LGBTI blog Towleroad featured an interview with an anonymous author from Sri Lanka who is reported to have stated that “‘Sri Lankans do not possess positive attitudes towards homosexuality. Exposing my sexual identity could affect my job, embarrass my family and could even be life threatening. My friends have faced such bitter experience for being ‘out’, particularly in rural areas.’”<sup>49</sup>

- 6.1.2 The Canadian LGBTI Internet journal DailyXtra, in an October 2015 article quoted a Sri Lankan woman who stated that:

‘The degree of harassment may differ from urban to rural areas. Kiru, who asked Daily Xtra to publish only her first name to protect her safety, says she can live relatively openly in Colombo, but back in her home village near Jaffna, she says she would be killed if she were open about her sexuality.

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<sup>47</sup> Kaleidoscope, ‘Report’ (p12), September 2014, [url](#).

<sup>48</sup> Daily Mirror, ‘Counting in LGBT’, 22 January 2018, [url](#).

<sup>49</sup> Towleroad, ‘Travel Diary’, 16 March 2015, [url](#).

‘But Flamer-Caldera says Equal Ground has found success hosting workshops and even occasional Pride celebrations in rural parts of the country. She says they explain LGBT issues in terms of human rights, something rural communities may better relate to than Colombo urbanites.’<sup>50</sup>

6.1.3 Outright International, following its study of interviewing 33 LBTs, published its findings in May 2016 and noted that:

‘All LBT people interviewed for this study reported experiencing emotional violence.’

‘The ways that LBT individuals experience the harassment, humiliation, power and control associated with emotional violence were many.’

‘This violence primarily involved an invasion of privacy (more than three fourths, reported by 26 of the 33 respondents); non-verbal or silent contempt and hostility (more than half, reported by 19 of the respondents); and emotional manipulation (more than half, reported by 18 respondents). More than half, (18 respondents) reported experiencing restrictions on socializing, such as their phone calls and letters being monitored; having ‘curfews’ imposed on them when their sexuality became suspect; being chaperoned when leaving the house; and being confined to the house due to their sexual orientation or gender identity. Approximately one third (13) had been forced to end their same-sex relationships, and one third (13) believed that their sexual orientation or gender identity was met with silent hostility or was invisibilized in one way or another (e.g., they were treated as if they were not in the room and/or were spoken about in the third person).’

‘Interviewees reported facing a high degree of peer teasing that often escalated into verbal harassment and bullying, in addition to intentional emotional abuse from peers, teachers, work colleagues, supervisors, friends and state actors.’

‘Verbal abuse, a specific means of belittling and demeaning someone through a barrage of insults, derogatory comments and hate speech, was a common experience across all age groups. Perpetrators of verbal abuse ranged from family members to neighbours, other members of the LGBT community, ex-partners, employers and prospective employers.’<sup>51</sup>

6.1.4 The same study further found that:

‘Twelve out of 33 interviews highlighted the constant pressures that butch lesbians and transgender people face in having to perform and live according to culturally expected gender norms—from being forced to marry, to having to wear particular clothes and maintaining certain hairstyles—all of which were experienced as psychological and emotional violence. Cultural and gender norm enforcement was also experienced as violence when interviewees were quizzed about their gender identity when using public toilets. Similarly, some interviewees were forced to keep their sense of self a secret and not look “too gay” in order to keep the family reputation intact. Some interviewees also spoke of being denied jobs or promotions on the

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<sup>50</sup> DailyXtra, ‘Still a crime to be gay in Sri Lanka’, 27 October 2015, [url](#).

<sup>51</sup> Outright International, ‘Violence: Through the lens of LBT people’ (pp. 14/15), 6 May 2016, [url](#)



basis of their gender expression – “not looking feminine enough” – and losing employment because their identity cards did not match their appearance.’<sup>52</sup>

6.1.5 In July 2016, delegates from a UK Home Office Fact Finding (The 2016 UK FFM) mission to Sri Lanka met with a representative from Equal Ground (EG), a non-profit organisation seeking human and political rights for LGBT community of Sri Lanka who stated: ‘Three quarters, if not more, of the LGBTI communities in Sri Lanka live a double life. They hide their sexual orientation. Quite often they are forced into heterosexual marriages. Some of them actually get into heterosexual marriages because they think that is the right thing to do, so that it hides their sexual orientation. Mostly those are gay men. Lesbian and bisexual women are pretty much forced by families to get married to men against their will.’<sup>53</sup>

6.1.6 As specified in the Human Rights Watch report, "All Five Fingers Are Not the Same" - Discrimination on Grounds of Gender Identity and Sexual Orientation in Sri Lanka, 15 August 2016:

‘In Sri Lanka, ideas about the way men and women should look and act are deeply entrenched. Those who challenge gender norms—including many lesbian, gay, bisexual, transgender, and intersex (LGBTI) people—may face a range of abuses from ... private individuals that compromise the quality and safety of their daily lives, and their ability to access services that are central to their realizing basic human rights.’

‘The abuses experienced by transgender people are part of a broader picture of discrimination faced by gender non-conforming people in Sri Lanka. LGBTI people in general may face stigma and discrimination in housing, employment, and health care, in both the public and private sectors.’

‘Social standing plays a significant role in the discrimination that LGBTI people face: those who are poor, who engage in sex work, or who obviously do not adhere to rigid gender norms are most vulnerable to abuse, including physical assault or arrest.’<sup>54</sup>

6.1.7 The Women and Media Collective, Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka, Shadow Report, presented to the 66th Session of the Committee for the Elimination of All Forms of Discrimination Against Women (CEDAW) 13 February–03 March 2017, stated:

‘The State has not undertaken any studies to determine the levels of underrepresentation or disadvantages faced by LBT [lesbian, bisexual, and transgender] persons in areas of decision-making. No political party has actively engaged with the LBT community to increase their representation in politics. Women in general have been historically under-represented at all levels of government and LBT women have been completely invisible in the

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<sup>52</sup> Outright International, ‘Violence: Through the lens of LBT people’ (p. 17), 6 May 2016, [url](#)

<sup>53</sup> UK Home Office’s, ‘Fact Finding Mission to Sri Lanka’ (p. 51), 11 – 23 July 2016, [url](#).

<sup>54</sup> HRW, “All Five Fingers Are Not the Same” (p. 1 & 4), 15 August 2016, [url](#).

political arena. No affirmative action has been taken to redress this situation for women of diverse gender identities and sexual orientation.<sup>55</sup>

- 6.1.8 The Women and Media Collective report ‘Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online’ published in December 2017 noted that:

‘This state of invisibility and isolation is broadly a result of Sri Lankan “conservatism”, in which attitudes towards and discourses on sexuality and sexual relationships are heavily controlled by societal and cultural forces opposed to sexual and gender diversity. Sexual conservatism in Sri Lanka regulates individuals through gender roles based on a rigid, male/female binary construct; sex is restricted by a “logic of reproduction”. Sexuality is restricted to marriage, and those who pursue sexual activity outside the confines of a marriage, especially women, are vilified. Sexual issues are “privatised” to such an extent that discussion in the public sphere is discouraged. Sex education in public schools is virtually non-existent and only exists in a few private schools.’<sup>56</sup>

- 6.1.9 DFAT noted in their 2018 report: ‘The vast majority of Sri Lankans holds conservative views about sexual orientation and gender identity, and many prioritise collective values over individual rights.’<sup>57</sup>

- 6.1.10 In a letter dated 27 August 2018 the British High Commission in Colombo stated that “There remains significant social exclusion for being LGBT which is perpetuated by stigma, cultural taboos and conservative, traditional and religious attitudes”.<sup>58</sup>

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## 6.2 Violence and discrimination

- 6.2.1 Outright International, following its study of interviewing 33 LBTs, published its findings in May 2016 and noted that:

‘Twelve out of 33 interviewees spoke of on-going physical violence in their lives. Twenty-six out of 33 interviewees shared stories of battery. Perpetrators included immediate family members, strangers, peers, partners, ex-partners and neighbours. Significantly, twelve such incidents were cases of partner violence.’

‘Interview data revealed that 18 out of 33 interviewees had faced some form of sexual violence. Experiences of sexual violence ranged from rape to sexual assault. Family members, friends, employers or superiors, unknown persons and colleagues were the perpetrators.’<sup>59</sup>

- 6.2.2 The 2016 Home Office FFM asked Equal Ground whether LGBTI persons were able to live openly and were told: ‘Not everybody. It depends on who they are and where they are. In urban settings some people might choose to live openly but they are actually few and far between.’<sup>60</sup>

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<sup>55</sup> Women and Media Collective, ‘Report’ (p6), 13 February–03 March 2017, [url](#).

<sup>56</sup> Women and Media, ‘Report’ (pg 20-21), December 2017, [url](#).

<sup>57</sup> DFAT ‘Country Report’, (Para 3.106), 23 May 2018, [url](#).

<sup>58</sup> See Annex A.

<sup>59</sup> Outright International, ‘Violence: Through the lens of LBT people’ (pp. 17/18), 6 May 2016, [url](#)

<sup>60</sup> UK Home Office’s ‘Fact Finding Mission to Sri Lanka’ (p. 51), 11 – 23 July 2016, [url](#).

### 6.2.3 In January 2017 Pink News reported:

‘There have been many reports of Sri Lankan LGBT activists being abused. [The UK] Liberal Democrat peer Baroness Barker, Vice Chair of Parliament’s APPG [All-Party Parliamentary Group] on Global LGBT Rights, found that data threats were frequently sent to activists. A group known as “The Island Nation of Sinhale” (Lion’s Blood), has become notorious for spewing radical ideologies intended to incite discrimination, hostility and violence against LGBT people. The group previously wrote: “Faggot activities aren’t legal.” “Let’s take the law into our own hands.” “If the police aren’t going to do anything about it our community is ready to do it ourselves”. “We will not let these mother f\*\*king dogs to ruin our culture.”’<sup>61</sup>

### 6.2.4 In August 2017, the UN Committee on Economic, Social and Cultural Rights Concluding observations on the fifth periodic report of Sri Lanka ‘... expressed concern that discrimination against lesbian, gay, bisexual, transgender and intersex persons was widespread, including in law enforcement, employment, health care, housing and education, and that lesbian, gay, bisexual, transgender and intersex persons had been subjected to threats and attacks on social media on the basis of their sexual orientation or gender identity.’<sup>62</sup>

### 6.2.5 The 2018 DFAT report stated:

‘No legislation protects LGBTI individuals from discrimination or hate crimes. Individuals routinely experience discrimination in employment, housing and health care due to real or perceived sexual orientation or gender identity. Transgender individuals, who tend to be more visibly identifiable, are more likely to experience discrimination and difficulty gaining access to basic services that require identity documents. Transgender individuals are unable to self-identify and, since August 2016, have been required to obtain a ‘Gender Recognition Certificate’ from a medical professional to amend government issued identity documents. Legal recognition of a different gender identity requires both hormone treatment and surgery, which is expensive, unavailable outside large cities such as Colombo and Kandy, and not desired by some individuals.’<sup>63</sup>

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## 6.3 Anti-LGBT protests

### 6.3.1 DFAT noted in its 2018 report:

‘In 2016, critics, notably Sinha Le, published threatening comments on social media relating to the Twelfth Annual Gay Pride Festival. Organisers cancelled some public events; police provided protection for participants at others. Authorities ‘misplaced’ paperwork for one public event celebrating International Day against Homophobia and Transphobia (IDAHOT) in 2016 and the event could not proceed; an IDAHOT event was also not held in

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<sup>61</sup> Pink News, ‘Sri Lanka just took a decision on whether to legalise homosexuality’, 18 January 2017, [url](#).

<sup>62</sup> UN Committee on Economic, Social and Cultural Rights, ‘Report’, 4 August 2017, [url](#).

<sup>63</sup> DFAT, ‘country report’ (para 3.102), 23 May 2018, [url](#).

2017. The police offer limited protection to LGBTI individuals, primarily at public events such as LGBTI marches.<sup>64</sup>

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## 6.4 Pro-LGBT marches/gay pride

6.4.1 Equal Ground is the only organisation in Sri Lanka to hold an annual Pride event. According to their website they work:

'[...] very hard to provide for the needs of the community each year giving the LGBTIQ community of Sri Lanka the space to stand up tall and be proud of who and what they are. Pride in Sri Lanka is currently on a small scale [...] the current political climate coupled with the oppressive laws against LGBTIQ persons, impedes a peaceful march. Therefore, Pride celebrations take place as private, yet very public functions attended by persons from all over Sri Lanka. Events include workshops, dramas/shows/musicals, film festivals, art & photo exhibitions, parties, the kite festival and so on.'<sup>65</sup>

6.4.2 Rosanna Flamer-Caldera, executive director of Equal Ground, informed the Daily Xtra, an online gay and lesbian media news platform, that 'organizers skip the parade to keep people safe.' Adding, 'we hold different events such as fashion drag shows, dramas, workshops, art and photo exhibitions, film festivals, parties and rainbow kite festivals on the beach. Strangely, no government has yet shut Pride down. This, I believe, is because we have a strategy to include foreign diplomats and heterosexual allies in all our events, thus making it difficult for the government to shut us down or cause disruption.'<sup>66</sup> [See [Police responses to reports of anti-LGBT violence](#)]

6.4.3 For more information on the current Pride events taking place in Sri Lanka see the [Equal Ground](#) website.

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## 6.5 Gay 'scene' or 'community'

6.5.1 The US LGBTI blog Towleroad reported that:

'Colombo doesn't have gay places as such, but the growth of internet usage in Sri Lanka has allowed the LGBT community to connect easier with each other via sites like Lanka Love and Gayromeo and more recently, Grindr. Unfortunately, many men hide their identity on these sites. (See also the section on [LGBT websites and online access](#)).

'There is no gay scene in Sri Lanka. But tourism is considered as a large income generator for Sri Lanka that a blind eye is turned to the anti gay laws in relation to foreigners. For example, gay friendly hotels are allowed to openly market to gay tourists, like in Negombo, which has become quite popular with gay tourists over the past few years. There are also several "beach boys" (male prostitutes) working on Negombo's beaches, both straight and gay.'<sup>67</sup>

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<sup>64</sup> DFAT, 'country report' (para 3.104), 23 May 2018, [url](#).

<sup>65</sup> Equal Ground, 'Colombo Pride 2017', 13 June 2017, [url](#).

<sup>66</sup> Daily Xtra, 'Still a crime to be gay in Sri Lanka', 27 October 2015, [url](#).

<sup>67</sup> Towleroad, 'Travel Diary', 16 March 2015, [url](#).

6.5.2 On 20 December 2016 Equal Ground, launched the LGBTIQ lifestyle magazine in Colombo. The first magazine of its kind to be published in Sri Lanka<sup>68</sup>.

6.5.3 The Women and Media Collective report ‘Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online’ published in December 2017 noted that:

‘Meeting each other has always been difficult for Sri Lankan LGBTQ people, and continues to be so even today. Rampant stigma and discrimination, and the associated fears of exposure, exclusion, and harm, deter many LGBTQ Sri Lankans from publicly seeking out the company and friendship of others who think and feel like them. The lack of tolerant, safe spaces to meet and socialise with each other exacerbates this issue; public spaces are heavily policed for “decency” in Sri Lanka, even for heterosexual couples, but unlike for them, people perceived to be “homosexual” face the possibility of arrest, or at least extortion under threat of arrest. Such prohibitive realities force many LGBTQ people to navigate public spaces with extreme care, exerting an adverse effect on their willingness and ability to seek out friendships and relationships with other members of the LGBTQ community.’<sup>69</sup>

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## 6.6 LGBT websites and online access

6.6.1 The study by Women and Media Collective, published in December 2017, found:

‘[A] number of unofficial yet Sri Lanka-specific sources of information, such as (for example) the Sakhi Collaboration, “Accept – Sri Lanka”, and Equal Ground, are available online. While Sakhi and Accept operate on Facebook, Equal Ground maintains its own website in addition to its social media presence. Sakhi operates through a personal profile on Facebook, sharing informative posters on LGBTQ issues, circulating local and international news on the topic, critiquing mainstream media handling of LGBTQ-related news, as well as creating informational content, such as a condom-use demonstration through photos offered in all three languages. Unlike Sakhi, Accept operates through a “page”, allowing any Facebook user to view its content without sharing their own profiles’ content with the platform. Its main project seems to be an outreach campaign, featuring LGBTQ supportive quotes from well-known Sri Lankan personalities, such as actors, novelists and human rights activists. The page also features “memes” incorporating Sri Lankan current affairs, designed in a manner to promote LGBTQ rights and to challenge established notions of “cultural” values in the country. The page also circulates local and international news postings. Unlike Sakhi and Accept, which are both operated by voluntary “admins” working in their personal capacities, Equal Ground’s platforms are run by a non-governmental organisation by the same name, featuring a number of research publications, periodicals, and advocacy materials, most of it being available in all three languages. A key limitation of the website is that most

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<sup>68</sup> Equal Ground, Press Release, 20 December 2016, [url](#).

<sup>69</sup> Women and Media, ‘Report’ (pg 46), December 2017, [url](#).



documents may only be opened through a third-party platform ([www.issuu.com](http://www.issuu.com)), on which both navigation and downloading of documents are significantly restricted.<sup>70</sup>

6.6.2 Further noting: 'Self-censorship extends to the creation and use of anonymous profiles. An important phenomenon among LGBTQ Sri Lankans is the widespread use of anonymous and pseudonymous profiles to navigate stigma and discrimination on social media.'<sup>71</sup>

6.6.3 Adding:

'In Sri Lanka, and within the LGBTQ community, social media platforms such as Facebook loom large. The ability to share content and socialise online, the ability to carry on private conversations away from the wider online community, the ease with which new connections can be made, and the considerably large network of anonymous LGBTQ profiles that exist on Facebook, mean that such social media platforms provide a convenient and (mostly) safe alternative to the risks of socialising and seeking partners in the physical world, which is remarkably hostile to sexuality and gender minorities.

'In addition to social media platforms, however, applications specifically designed for "dating" and "hooking up" have also emerged, combining geo-positioning technology with photo-sharing and instant messaging technologies, allowing individuals to meet each other based on a combination of their preferences and their physical proximity to each other. While most such platforms exist for people of all sexual orientations and gender identities, platforms specifically targeting LGBTQ people also exist. These platforms, especially in a context where LGBTQ Sri Lankans do not have access to public spaces in the physical world as social and sexual beings, have proved to be useful in multiple ways.'<sup>72</sup>

6.6.4 An online article published by Kajal magazine in March 2018, reported: 'Private Facebook groups are key sites for safe discussion and organising. Vocal LGBTQ activists reported that they are regularly contacted via social media for information, such as for details of gay friendly health clinics or local meet ups.'<sup>73</sup>

6.6.5 Commenting on a 2018 study into internet use, "Disrupting the Binary Code: Experiences of LGBT Sri Lankans Online", produced by Sri Lanka's Women and Media Collective as part of a project by the EROTICS South Asia Network, Kajal, noted:

'Many Sri Lankan LGBTQ individuals self-censor. 25 percent of respondents have more than one internet profile for reasons related to sexual orientation or gender identity. "Fake" profiles used to meet lovers online without revealing identifying details were common, as were "fake" profiles

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<sup>70</sup> Women and Media, 'Report' (pg 36), December 2017, [url](#).

<sup>71</sup> Women and Media, 'Report' (pg 42), December 2017, [url](#).

<sup>72</sup> Women and Media, 'Report' (pg 48-49), December 2017, [url](#).

<sup>73</sup> Kajal, 'New Study Recommends How to Keep LGBTQ Sri Lankans Safe Online', 1 March 2018, [url](#).

with staged heterosexual content for the benefit of colleagues and conservative family members...

'Worryingly, Sri Lanka's state surveillance laws, which allow the government to demand private information from Internet Service Providers (ISPs), are unclear and difficult to access. Respondents showed a low level of understanding around internet security and safety, highlighting the need for community education initiatives.'<sup>74</sup>

6.6.6 See also the section on [Gay 'scene' or 'community'](#).

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## 6.7 Family treatment

6.7.1 A 2014 report by Kaleidoscope, noted: 'LBT women have come forward with accounts of blackmail, rape and physical abuse once their sexual orientation or gender identity has been discovered by others within their community or family. Several women have been forced into heterosexual marriages.'<sup>75</sup>

6.7.2 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated 'In recent years, EQUAL GROUND has received numerous reports from individuals who were forced into heterosexual marriages, usually by their family members.'<sup>76</sup>

6.7.3 The 2018 DFAT report stated that:

'According to local sources, the LGBTI community faces threats, harassment and forced heterosexual marriage from family and members of the community. Many middle and upper class, educated and urban Sri Lankans can be open about their sexuality within their family and community circles. However, risks are higher for lesbian and bisexual rural women due to more traditional familial expectations and values. DFAT considers credible reports of violence in the home and public spaces, and many LGBTI individuals, especially Muslims, hide their identity to avoid harassment. In rural areas, families pressure LGBTI members to seek "treatment" at dedicated profit-making centres, or through witchcraft.'<sup>77</sup>

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## 6.8 Intersex persons

6.8.1 CPIT was unable, within the sources consulted, to find any information on societal treatment of intersex persons.

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<sup>74</sup> Kajal, 'New Study Recommends How to Keep LGBTQ Sri Lankans Safe Online', 1 March 2018, [url](#).

<sup>75</sup> Kaleidoscope, 'Report' (p. 10), September 2014, [url](#).

<sup>76</sup> Equal Ground, 'Report' (p. 7), May 2017, [url](#).

<sup>77</sup> DFAT, 'country report' (para 3.103), 23 May 2018, [url](#).

## 7. Media attitudes

- 7.1.1 The study by Women and Media Collective, published in December 2017, found: ‘The media plays an important role in perpetuating stigmatisation of and discrimination against LGBTQ Sri Lankans.’<sup>78</sup>
- 7.1.2 The 2018 DFAT report stated that ‘Since the government came to power, public discussion of issues faced by Sri Lanka’s LGBTI community has expanded. The media discusses LGBTI issues openly and some LGBTI individuals have adopted a high profile, particularly in Colombo. Conversely, freer speech has enabled hate speech, including by state officials, to appear in the media and hate campaigns on social media.’<sup>79</sup>
- 7.1.3 In a letter dated 27 August 2018 the British High Commission in Colombo stated that “The media has also been known to publish articles which are factually inaccurate and insensitive to LGBT people, fuelling negative public perceptions”.<sup>80</sup>
- 7.1.4 See also the section on [LGBT websites and online access](#).

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## 8. Access to services

- 8.1.1 The study by Women and Media Collective study noted ‘The law also enables many discriminatory acts beyond law enforcement, such as the refusal of accommodation by prospective landlords, the refusal of job opportunities, and even, as one writer reports, the refusal of advertising space in mainstream newspapers for LGBTQ events.’<sup>81</sup>
- 8.1.2 In January 2018, a Daily Mirror article noted ‘A mapping study recently conducted by Equal Ground ...shows that ... 72.2% [of LGBT people] were refused education, 57.14% were terminated from work, and 70% were refused medical assistance.’<sup>82</sup>
- 8.1.3 See also the section on [Societal attitudes and treatment](#).

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## 8.2 Healthcare

- 8.2.1 A 2014 report by Kaleidoscope, noted: ‘The discrimination and stigma surrounding LGBTI issues and criminalisation of conduct based on sexual orientation and gender identity significantly interferes with individuals’ right to health. There have been reports of abuse by health professionals towards LGBTI individuals through mechanisms such as forced institutionalisation or therapy, which has serious implications under the right to be free from arbitrary detention and also torture, cruel, inhuman and degrading treatment or punishment.’<sup>83</sup>

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<sup>78</sup> Women and Media, ‘Report’ (pg 25), December 2017, [url](#).

<sup>79</sup> DFAT, ‘country report’ (para 3.104), 23 May 2018, [url](#).

<sup>80</sup> See Annex A.

<sup>81</sup> Women and Media, ‘Report’ (pg 23), December 2017, [url](#).

<sup>82</sup> Daily Mirror, ‘Counting in LGBT’, 22 January 2018, [url](#).

<sup>83</sup> Kaleidoscope, ‘Report’ (p. 6), September 2014, [url](#).



- 8.2.2 The Women and Media Collective Shadow Report, Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka, Presented to the 66th Session of CEDAW 13 February – 03 March 2017: observed:

‘While the basic health needs of LGBT people and the general population are the same, their sexual orientation and gender identity and expression is a barrier to LGBT individuals accessing health related entitlements. LBT women in Sri Lanka continue to face challenges in exercising their basic right of access to health care, including reproductive health and avoid or delay receiving health care or receive inappropriate or inferior care in general and health care settings. The high visibility of LGBT persons in HIV prevention intervention programmes is considered to pose a barrier to recognizing their need for services for general and reproductive health problems as for the general population.’<sup>84</sup>

- 8.2.3 Further adding:

‘Members of the transgender community report complete disregard and lack of concern for protecting the confidential details of their medical histories by State run healthcare facilities. Information has been shared with non-medical hospital personnel such as cleaners and security staff. Some transgender persons report intimidation and harassment by hospital staff. In one case, a doctor sexually harassed a transwoman seeking medical assistance at a government hospital. In another incident a transgender man reported having his genitals examined when he was under sedation for surgery not related to his sexual organs. There are also reports indicating that transwomen who go to government healthcare facilities have faced discrimination, such as their cases being delayed and their appointments being pushed to the back of the queue. Transmen (female to male) are often left out of HIV awareness programmes since often only transwomen are categorised as men having sex with men by HIV service providers.’<sup>85</sup>

- 8.2.4 DFAT noted however, in their 2018 report: ‘Local sources have identified the Kalubowila government hospital near Colombo as a transgender-friendly hospital; it conducted the first sex reassignment surgery in Sri Lanka in 2017.’<sup>86</sup>

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### 8.3 Employment

- 8.3.1 A 2014 report by Kaleidoscope, noted: ‘Discrimination, among other things, limits access to employment, housing and health services. There have been reports of LGBTI individuals being fired from jobs, refused accommodation or forced to leave, because of their real or perceived sexual orientation or gender identity.’<sup>87</sup>
- 8.3.2 At an European Union sponsored business roundtable on the ‘challenges and benefits of the diversity in the workplace’ at the Taj Samudra on 14 June

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<sup>84</sup> Women and Media Collective, ‘Report’, 13 February – 03 March 2017, (p9), [url](#).

<sup>85</sup> Women and Media Collective, ‘Report’, 13 February – 03 March 2017, (p10), [url](#).

<sup>86</sup> DFAT, ‘country report’ (para 3.102), 23 May 2018, [url](#).

<sup>87</sup> Kaleidoscope, ‘Report’ (p. 4), September 2014, [url](#).

2017, with Equal Ground spearheading the event, the EU Delegation in Colombo, said that: “Evidence was provided to establish the existence of discrimination of employees on the basis of sexual orientation and gender identity, and, the economic costs, such as lower productivity, increased-employee absenteeism and employee turnover to underscore the importance of an open and accepting corporate culture.”<sup>88</sup>

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## 9. LGBT groups, civil society and human rights NGOs

### 9.1 Government recognition of LGBT Non-Governmental organisations (NGOs)

9.1.1 A 2014 report by Kaleidoscope, noted: ‘There are local NGOs that support LGBTI individuals, organise events and advocate for equal rights; however, these groups face opposition, hostility and vilification by State and non-State actors, and many have ceased to operate. It has been noted that, although the increase in NGOs supporting LGBTI rights has led to greater visibility, it has also corresponded with an increase in visible homophobia within the community.’<sup>89</sup>

9.1.2 Reporting on the use of hate speech and hate campaigns, the Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka, 10 February 2017, stated: ‘Organizations working on LGBT rights have also reported threats and attacks on social media against groups and individuals on the basis of sexual orientation.’<sup>90</sup>

9.1.3 A report for the UN Committee on Economic, Social and Cultural Rights regarding violations against LGBTIQ people compiled by Equal Ground and the Center for International Human Rights (CIHR), dated May 2017, stated:

‘EQUAL GROUND, as an organization working for the LGBTIQ community, has faced discrimination when seeking approval for events from public authorities and the police. For instance, Police permission to hold a public vigil in commemoration of the victims of homophobia, biphobia and transphobia for the International Day Against Homophobia, Biphobia and Transphobia (IDAHOT) in 2016, was withheld with no explanation for such actions. Attempts to sensitize the Police on a national level have been refused, on the grounds of LGBTIQ issues being a ‘non-issue’ to the Sri Lanka Police.’

‘It is interesting to note also that any attempts made by EQUAL GROUND to engage with government authorities are either ignored, or are responded to by the authorities only via indirect, informal avenues of communication, even in instances where other civil society organizations are acknowledged or contacted directly. This highlights a ‘non-recognition issue’ whereby the LGBTIQ community is not recognized as a minority with legitimate problems in Sri Lanka, resulting in the community being excluded from policy

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<sup>88</sup> The Island, ‘SL urged to repeal laws against lesbians...’, 15 June 2017, [url](#).

<sup>89</sup> Kaleidoscope, ‘Report’ (p. 1), September 2014, [url](#).

<sup>90</sup> UNHRC, ‘Report’, 10 February 2017, [url](#).

consultations. This, in turn, leads to discrimination and exclusion from the enjoyment of economic and social rights enjoyed by other citizens.’<sup>91</sup>

9.1.4 The Women’s Support Group (WSG), a Colombo-based non- governmental organization (NGO) provided support for lesbians, bisexual women and transgender people<sup>92</sup>.

9.1.5 DFAT noted in their 2018 report: ‘LGBTI individuals have few support mechanisms. Only a small number of NGOs support LGBTI rights, through advocacy or provision of services. These groups report difficulties in operating openly in rural areas.’<sup>93</sup>

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<sup>91</sup> Equal Ground, ‘Report’ (p. 8), May 2017, [url](#).

<sup>92</sup> The International Gay and Lesbian Human Rights Commission, ‘report’, 2014, [url](#).

<sup>93</sup> DFAT ‘Country Report’ (Para 3.105), 23 May 2018, [url](#).

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToRs, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- Legal context
  - Constitution
  - Legislation
  - Criminal/Penal code
- State attitudes and treatment, incl. the law in practice
  - Arrests and detention of LGBT persons and prosecutions for same sex acts and other offences
  - Police violence
  - Police responses to reports of anti- LGBT violence
  - Public statements by government officials
  - Ombudsman/Complaints mechanism(s)
- Societal attitudes and treatment
  - Societal norms
  - Violence and discrimination
  - Anti-LGBT protests
  - Pro-LGBT marches/gay pride
  - Gay 'scene' or 'community'
  - LGBT websites
  - Family treatment
- Media attitudes
- Access to services
  - Healthcare
  - Accommodation
  - Employment
  - Education
- LGBT groups, civil society and human rights NGO's
  - Government recognition of LGBT NGOs
  - Restrictions on Civil Society Groups

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# Annex A

Letter dated 27 August 2018 from the British High Commission in Colombo regarding the situation for lesbian, gay, bisexual, transgender and intersex persons in Sri Lanka.



British  
High Commission  
Colombo

Migration  
389, Baudhaloka Mawatha  
Colombo  
Sri Lanka



27 August 2018

Country Policy and Information Team  
Home Office  
7th Floor Apollo House  
36 Wellesley Road Croydon

Dear Colleagues,

Re: Lesbian, gay, bisexual, transgender and intersex persons (LGBTI) in Sri Lanka

1. This letter is to provide an update on the subject of LGBTI further to the Country Policy and Information note dated July 2017.
2. In 2017 Equal Ground (EG) published their study 'Mapping LGBT in Colombo, Kandy, Matara, Nuwara Eliya' which accompanies this letter. EG have suffered harassment for organising events that promote the rights of and are attended by LGBT people in Sri Lanka in the past. This has caused concerns about safety, but has mostly been in the form of online threats as opposed to direct confrontation.
3. There remains significant social exclusion for being LGBT which is perpetuated by stigma, cultural taboos and conservative, traditional and religious attitudes. The media has also been known to publish articles which are factually inaccurate and insensitive to LGBT people, fuelling negative public perceptions.
4. However, there are some improvements. Individuals are now able to have their change of gender recognised. A Gender Recognition Certificate (GRC) can be applied for which then enables the issuance of a new passport and

National Identity Card. The British High Commission, Colombo, met someone who has gone through this process and who advised that it was handled in a relatively short period of time. The only drawback is that the new passport carries an 'endorsement' that states that the bearer is a transgender person whose previous passport was issued under such name and such gender marker.

5. Further to criticism by the United Nations in November 2017 in their Universal Periodic Review concerning the criminalisation of homosexuality, the Government of Sri Lanka responded by announcing homosexuality will now be decriminalized:

"The government is committed to ensuring that no provision in the law would be applied to persons of the LGBTIQ community in a discriminatory manner," said Nerin Pulle, Sri Lanka's Deputy Solicitor General. "Despite social, political and cultural challenges that remain with respect to reforming law, Sri Lanka remains committed to law reform and guaranteeing non-discrimination on the grounds of sexual orientation and gender identity."

6. As reported in the Foreign Office travel advice, same-sex relations are illegal but the FCO is not aware of any prosecutions. There have been no reports of those identifying as LGBT having their homes/hotel rooms raided by police.

7. Negombo and Mount Lavinia are popular towns for LGBT persons to meet socially. In particular, the community meet at Equal Ground office, and some privately owned places. The addresses of these places are not publicly available because of the security reasons. Beside these places, there are no Gay/Lesbian clubs or community centers in Sri Lanka for the LGBT community to meet.

Should you have any questions please feel free to contact us.

Yours faithfully,

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

British High Commission Colombo

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# Version control

## Clearance

Below is information on when this note was cleared:

- version **3.0**
- valid from **3 October 2018**

## Changes from last version of this note

Updated country information

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