



Inspection of Country of Origin Information

January 2019 Report

David Bolt

Independent Chief Inspector of
Borders and Immigration

Inspection of Country of Origin Information

January 2019 Report

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

June 2019



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Our purpose

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

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Foreword

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

The Independent Advisory Group on Country Information (IAGCI) is a panel of experts and practitioners, created to assist the Chief Inspector in this task. The IAGCI commissions and quality assures reviews of country information produced by the Home Office’s Country Policy and Information Team (CPIT).¹ A list of IAGCI members can be found on the Inspectorate’s website.

This report covers the reviews considered and signed off by the IAGCI at its January 2019 meeting, which related to Burma, Iraq and Zimbabwe.

My covering report makes just one recommendation. This is in addition to the recommendations contained in the individual reviews, the majority of which the Home Office has already accepted.

The report was submitted to the Home Secretary on 25 March 2019.

D J Bolt

Independent Chief Inspector of Borders and Immigration

¹ Previously the Country of Origin Information Service (COIS).

1. Scope

- 1.1 In September 2018, IAGCI sought tenders for reviews of the following CPIT Country of Origin Information Requests (COIRs) and Country Policy and Information Notes (CPINs):
- Burma
 - Country of Origin Information Requests (COIRs)
 - Critics of the Government (March 2017)
 - Rohingya (November 2017)
 - Iraq
 - Country of Origin Information Requests (COIRs)
 - Perceived collaborators (January 2018)
 - Internal relocation, civil documentation and returns (October 2018)
 - Zimbabwe
 - Country of Origin Information Requests (COIRs)
 - Sexual orientation and gender identity (May 2018)
 - Opposition to the government (November 2018 DRAFT)
- 1.2 These countries and topics were chosen because they had not been reviewed by IAGCI for some time (Iraq was last reviewed in 2015, Zimbabwe in 2014, and Burma in 2011) and because of the numbers of asylum applications and high refusal rates.
- 1.3 Tenders (Burma seven, Iraq three, Zimbabwe two) were assessed by the IAGCI Chair, with input from members, and the reviewer with the most relevant, country-specific knowledge selected in each case.
- 1.4 The completed reviews were quality assured by the IAGCI Chair and members and sent to CPIT. CPIT added its responses, forming a single document for each country review.
- 1.5 IAGCI met on 17 January 2019 to go through the reviews and the CPIT responses, excluding the Pakistan reviews which were not received in time. These will be considered at the next IAGCI meeting. The agenda and minutes of 17 January 2019 meeting are at Annex A.

2. Reviewers' comments and recommendations

Burma

- 2.1 Laura Draper² reviewed 8 Burma COIRs (6 from 2015, and one each from 2016 and 2018), plus the CPINs entitled 'Critics of the Government' (March 2017), and 'Rohingya' (November 2017). Her reviews are at Appendices C to E, along with CPIT's responses.
- 2.2 CPIT "Accepted" the reviewer's recommendation that the COIRs should attempt to answer all of the questions posed in the request and specify where no information or only background information was available, and that it would be helpful to caseworkers to include sub-headings and cross-references to other COI products. CPIT recognised this as sensible and applicable to all COIRs.
- 2.3 In the case of four of the 2015 COIRs, CPIT decided that the best course of action was to remove the COIR from the Home Office intranet and either incorporate the reviewer's comments into the relevant CPIN or look to provide an updated COIR should one be requested. This highlighted the need for IAGCI to ensure, if possible, that COIRs selected for review were on topics of current interest.
- 2.4 CPIT undertook to update three other COIRs and incorporate the reviewer's suggestions. These covered:
 - 'Treatment of gay men' (the reviewer confirmed that the situation remained much as it was in 2015 citing a more recent source)
 - 'Shan ethnicity; Political affiliation' (the reviewer pointed to a 2018 fact-finding UN mission report that provided a more complete picture)
 - 'Whether conversion from Buddhism to Christianity is illegal. Treatment of converts to Christianity' (the reviewer pointed to a 2018 report by the Chin Human Rights Organization detailing discrimination and violence towards Christians, including converts)
- 2.5 Meanwhile, the reviewer considered that the COIR 'Update on political and security situation' (03/15-120) provided a good overview of the events of the protests in Letpadan in March 2015 and the state and police response.
- 2.6 In the case of the 'Critics of the Government' CPIN, CPIT 'Accepted' all but two of the reviewer's recommendations, undertaking to incorporate her points in an updated CPIN.
- 2.7 Two recommendations were 'Partially accepted'. The first concerned the reliance on the Australian Department of Foreign Affairs and Trade (DFAT) Country Information Report on Burma. DFAT's methodology was discussed at the IAGCI meeting, specifically the fact that DFAT did not identify its sources and whether DFAT's remit meant it might not always be objective. CPIT was confident that DFAT was a reliable source. It understood that DFAT's reports combined local sources and DFAT's

² Biography at Annex B

own on-the-ground observations. However, it would “aim to include additional corroborating information” and asked the reviewer to provide further sources, if possible.

- 2.8 The second ‘Partially accepted’ related to the reviewer’s recommendation that the CPIN could list more examples of journalists being charged with crimes relating to their journalistic activities. CPIT did not believe this was necessary “given the purpose of the CPIN” but undertook to consider incorporating the suggested additional sources in an updated CPIN.
- 2.9 In the case of the ‘Rohingya’ CPIN, CPIT again ‘Accepted’ the majority of the reviewer’s recommendations and undertook to incorporate them in an updated CPIN.
- 2.10 Three recommendations were ‘Partially accepted’, two of which related to structural points. The third related again to DFAT reporting, which the reviewer described as “vague and factually inaccurate” in respect of the ability of Rohingya to obtain identity documentation enabling them to live and work without discrimination and of the registration of Rohingya in Yangon as “Burmese Muslims”, thereby holding national ID cards and residency documents that give them the legal right to a passport.
- 2.11 CPIT undertook to incorporate the reviewer’s suggested “contradictory” sources in relation to these points. While it is entirely appropriate to include contradictory sources where both could be correct, because a range of answers is possible, in this case the reviewer challenged the factual accuracy of the DFAT report and is either right or wrong. Including the DFAT information alongside the reviewer’s suggested sources in an updated CPIN will only confuse users.

Iraq

- 2.12 Alan George³ reviewed 10 Iraq COIRs (all from 2018), plus the CPINs entitled ‘Perceived collaborators’ (January 2018), and ‘Internal relocation, civil documentation and returns’ (October 2018). His reviews are at Appendices F and G, along with CPIT’s responses. The reviewer found that the overall quality of the COIRs and CPINs was good.
- 2.13 The reviewer’s points of substance, all of which were ‘Accepted’ by CPIT, related to four of the 10 COIRs:
- ‘Constitution – dual citizenship’ (recommending inclusion of the relevant clauses from Articles 9 and 10 of Iraq’s 2006 Nationality Law, Law 26)
 - ‘Atheism and apostasy’ (the reviewer recommended inserting paragraphs from the US State Department’s 2017 International Religious Freedom Report about the Iraqi constitution’s guarantee of freedom of religious belief and practice for Christians, Yazidis and Sabean-Mandaeans, but not for other religions or atheists, and the religious demography of Iraq)
 - ‘Iraq: Kakai religion’ (the reviewer recommended including a description of the Kakai and their beliefs from UNHCR’s 2007 Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers’)
 - ‘Iraq: Honour crimes’ (the reviewer recommended quoting from the 2017 Human Rights Watch report of the Iraqi Parliament’s rejection of proposed amendments to the Personal Status Law covering the marriageable age for girls, inheritance and divorce, and enshrining Shia and Sunni religious establishment control over marriage-related matters)
 - ‘Iraq: Zoroastrians’ (the reviewer recommended inserting a description of Zoroastrianism from a 2017 report by the US Commission on International Religious Freedom)

³ Biography at Annex B

- 2.14 In the case of ‘Perceived collaborators’, the reviewer suggested two additional sources, concerning the likelihood that individuals who had worked as interpreters/drivers etc. for the US military would face persecution, and the second relating to documented civilian deaths, including translators killed and wounded. CPIT ‘Accepted’ both recommendations, undertaking to consider the suggested sources when updating the CPIN.
- 2.15 In the case of ‘Internal relocation, civil documentation and returns’, CPIT ‘Accepted’ all of the reviewer’s recommendations, except for two that were ‘Not accepted’ citing sources that post-dated the publication date of the CPIN, and one that was ‘Partially accepted’. The latter turned on the use of the word “booklet” to describe an Iraqi Nationality Certificate, which is a single piece of thick paper that is folded over. It does not have pages. CPIT did not see a material difference but agreed to clarify this.
- 2.16 The main point of discussion in the IAGCI meeting was the arbitrary and changing nature of the entry requirements for the governates of the Kurdish Region of Iraq, which are at the discretion (whim) of the officials on duty. CPIT recognised this and had had it confirmed by Norwegian counterparts who had visited Iraq in summer 2018.

Zimbabwe

- 2.17 Kudzai Chatiza reviewed 10 Zimbabwe COIRs (all from 2018), plus the CPINs entitled ‘Sexual orientation and gender identity’ (May 2018), and ‘Opposition to the government’ (November 2018 DRAFT). His reviews are at Appendices H and I, along with CPIT’s responses.
- 2.18 The reviewer made recommendations in relation to seven of the COIRs, of which CPIT ‘Accepted’ five. Of the other two, one was ‘Partially accepted’ and one ‘Not accepted’. The latter related to the recommended inclusion of a BBC report on ‘fake news’ in ‘Political System and Affiliation: Online Political Content’, which CPIT considered did not provide information specific to Zimbabwe. The ‘Partially accepted’ referred to the need for more up-to-date information in relation to ‘Refugees: Treatment-Returned Asylum Seekers’. CPIT accepted that this was desirable but was unaware of more recent information and asked the reviewer to suggest sources.
- 2.19 The five ‘Accepted’ recommendations related to:
- ‘Legal System-Judiciary: Customary Marriage-Divorce’ (the reviewer recommended adding information about unregistered customary unions, including co-habitation)
 - ‘Children: Children with Autism’ (the reviewer recommended adding information about the framework and initiatives for child protection)
 - ‘Legal System-Judiciary: Land Ownership’ (the reviewer provided more detailed information and identified an additional source)
 - ‘Religion: Ethnicity’ (the reviewer recommended adding information about how political interests can impact discrimination)
 - ‘Person with Learning Difficulties: Disabled Persons’ (the reviewer recommended adding a rural perspective)
- 2.20 In two cases, ‘Political Affiliation: Use of Social Media’ and ‘Media Bloggers: Treatment of Journalists’ the reviewer did not make a recommendation. In both cases, he endorsed the COIR.

- 2.21 In relation to the COIR 'Legal System-Judiciary: Desertion from the Armed Forces', CPIT rejected the reviewer's suggestion that it might wish to invest in further research as the volume of cases did not warrant it.
- 2.22 The reviewer's assessment of the 'Sexual orientation and gender identity' CPIN was "generally positive", while noting the limited range of sources and recommending the inclusion of information from academic literature, Zimbabwean case law and local media to balance the information from foreign and international sources. Of the four main and three more detailed recommendations CPIT 'Accepted' six and 'Partially accepted' one.
- 2.23 The reviewer noted that the CPIN 'Opposition to the Government' cited credible sources and made good use of the wealth of available information, resulting in a more complete CPIN that was nuanced and balanced in its use of local voices. Of 17 recommendations, CPIT 'Accepted' 13 and 'Partially accepted' one. Three recommendations to include additional information were 'Not accepted', two as CPIT considered this to be unnecessary detail and the third because it was covered elsewhere.

3. Independent Chief Inspector's Recommendation

'Contradictory' versus 'inaccurate' information

- 3.1 The Preface to each CPIN explains the criteria used for the inclusion of information (“relevance, reliability, accuracy, balance, currency, transparency and traceability”) and the factors involved in assessing the reliability of sources (including “motivation, purpose, knowledge and experience” and how the information was obtained, including specific methodologies used”). It also refers to the use of multiple sources and provision of “a range of views and opinions”, caveating this with “The inclusion of a source, however, is not an endorsement of it or any view(s) expressed.”
- 3.2 This approach, which follows EU guidelines, is both professional and reasonable, particularly given the often complex and changing country conditions that the COI is seeking to describe. It also respects the role of the asylum decision maker.
- 3.3 However, there is a distinction between “views and opinions”, where it is possible for a range of sources to coexist, and “facts” that are either right or wrong, and it is unhelpful to decision makers for CPIN’s to include factually incorrect information alongside the facts, even caveated, and arguably more so if it comes from a source generally regarded as reliable.

Recommendation

The Home Office should:

1. Review its use of multiple sources and ensure that where COI is referring to matters of fact rather than views or opinions it either indicates which is correct or provides sufficient details of the sources (motivation, purpose, knowledge, experience, how and when the information was obtained) to enable the reader to make an informed judgement.

D J Bolt

Independent Chief Inspector of Borders and Immigration

Annexes

Annex A:

Meeting of the Independent Advisory Group for Country Information
17 January 2019

Annex B:

Biographies of the Reviewers

Annex C:

Review of the November 2017 Home Office Country of Origin
Information on Burma: Rohingya

Annex D:

Review of the March 2017 Home Office Country of Origin Information
on Burma: Critics of the Government

Annex E:

Review of Home Office Responses to Country of Origin Information
Requests on Burma

Annex F:

Review of the January 2018 Home Office Country Policy and
Information Note on Iraq: Perceived collaborators and COI responses

Annex G:

Review of the January 2018 Home Office Country Policy and Information
Note on Iraq: Internal relocation, civil documentation and returns

Annex H:

Review of the November 2018 Home Office Country of Origin Information
on Zimbabwe: Opposition to the Government

Annex I: Review of the May 2018 Home Office Country Policy and
Information Note on Zimbabwe: Sexual orientation and gender identity

Annex A

**Meeting of the Independent Advisory Group for Country Information
17 January 2019**

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

IAGCI Members:

Laura Hammond (LH), School of Oriental and African Studies (Chair)
Dr Ceri Oeppen (CO), University of Sussex
Mike Collyer (MC), University of Sussex
Patricia Daley (PD), University of Oxford
Prof Giorgia Dona (GD), University of East London
Julie Vullnetari (JV), University of Southampton
Katinka Ridderbos (KR), UNHCR, Geneva

Apologies (Members):

Judge Susan Pitt (SP), Upper Tribunal Judge
Dr Nando Sigona (NS), University of Birmingham
Harriet Short (HS), Immigration Law Practitioners' Association

ICIBI representatives:

David Bolt (DB), Independent Chief Inspector
Hollie Savjani (HS), Minute taker
Paul Sherratt (PS), Minute taker
Lamees Abu-Hayyeh (LA-H), Observer
Paul David (PDa), Observer
David Rhys-Jones (DR-J), Observer
Chris Thompson (CT), Observer

CPIT:

Jennifer Bradley (JB), SCS for CPIT
Martin Stares (MS), Head of CPIT
Robin Titchener (RT), Manager Africa Teams
Pauline Crichlow (PC), Burma and Pakistan
Anna Johnstone (AJ), Zimbabwe
Bill Lacy (BL), Iraq

Home Office:

Fiona Mackie (FM), Pre-Inspection Team

Commissioned reviewers:

Laura Draper (LD), Burma reviewer (telecon)
Alan George (AG), Iraq reviewer (telecon)
Kudzai Chatiza, Zimbabwe reviewer (telecon)

Agenda item	Discussion	Action
1. Chair's Report	<p>LH: The Pakistan reviews had been received but not in time for this meeting. They would be included next time.</p> <p><u>Note:</u> LH explained to each of the reviewers that their review should not be circulated as a public document at this stage as it would form part of an ICIBI inspection report in due course</p>	Add the Pakistan reviews to the agenda for the next IAGCI mtg
2. Zimbabwe reviews	<p>KC: Quality of the notes were generally good. Level of debate and analysis could have been expanded.</p> <p>'Opposition to the government' uses credible and recent sources but more use could be made of local experts/practitioners to add context.</p> <p>Paragraph 2.2 - would want to see more analysis of the change of government/President and the array of political groups and the internal dynamics. Military sector needs to be discussed in context of government <u>and</u> as a topic in its own right.</p> <p>Some scope to expand literature and identify source clusters rather than individual sources.</p> <p>'Sexual orientation and Gender Identity': concerns about the labelling of issues associated with sexual orientation.</p> <p>Police are unable to support not only victims of rape or violence due to homosexuality but also society in general. Would recommend adding to the literature used.</p> <p>LH: summarised the key points –</p> <ul style="list-style-type: none"> • 'Opposition to government' CPIN focuses heavily on the government's activities and should be more about opposition groups • characterising the general approach to LGBT issues as "conservative" is an oversimplification and not true of attitudes across the community as a whole • the institutional response to LGBT protection reflects the capacity to provide effective support more 	KC to send specific references and suggestions to assist researchers

	<p>broadly.</p> <p>MS: CPIT appreciated the reviewer’s generally positive comments and acknowledged the above points, but for CPIT’s purpose in looking at the risks membership of particular political groups was less relevant than the fact of being opposed to the government.</p> <p>KR: On political opposition, it was extremely important to understand there are non-official, semi-organised groups. The COIN should be broader than just political parties.</p> <p>On sexual orientation, there was a need to draw a distinction between a general lack of access to services and discrimination. For example, beyond a general lack of access to health services, there was particular discrimination against LGBT, who were fearful about accessing services as a result.</p> <p>There was little discussion of the experiences of transgender individuals beyond the acknowledgement that they had gained legal recognition of their status. The subject may warrant a sub-section in the CPIN.</p> <p>The same is true for women. A 2011 tribunal case highlighted that the situation was worse for lesbians than for gay men (women were not allowed to live in some areas and here there was more acceptance of homosexual relationships), so it would be helpful to have a sub-section for women in each section.</p> <p>The description of societal attitudes towards LGBT was very detailed, but the point that violence was not frequent was contradicted by the description of how LGBT did not come forward to report it. The information presented in the CPIN undermines the conclusion.</p> <p>MS: What under-reporting tells you was debatable. CPIT does not entirely agree that the conclusion needs to be changed but will look again at the wording of the relevant paragraph.</p> <p>LH: It was well known that under-reporting is a problem. The CPIN could make be clearer about the lack of information from which to draw a conclusion about how big an issue it is rather than saying it is not an issue because there is little reporting.</p>	
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	<p>LH: (to KC) Is information available about the different experiences for each sub-group within LGBT?</p> <p>KC: Yes, court and police cases exist. The fact that there are only a few is less important than the details.</p> <p>RT: CPIT would find it helpful if the reviewer could provide specific citations and references for researchers.</p>	
<p>3. Burma reviews</p>	<p>LD: The main concern about the Rohingya CPIN is the lack of detail on treatment of Rohingya outside of Rakhine state. The sources are general balanced, reliable and good quality. But LD would suggest using a wider base of sources as there are a number of NGOs that have published reports.</p> <p>Reliance on the Australian DFAT report is a concern in that DFAT does not provide citations for its sources. In most cases, the DFAT commentary is accurate, but in some places it is not.</p> <p>Paragraph 2.8 needs more discussion – the policy guidance has set a higher threshold for those outside of Rakhine state. The only source referenced is the DFAT report. Although sources may contradict one another, there is a need to reach a reasonable view.</p> <p>MS: A lot has happened since the CPIN was published. CPIT will publish an update.</p> <p>DFAT uses a mix of in-country reporting and its own observations. Sometimes it will be explicit about from whom it obtained particular information. CPIT does not have an issue with DFAT’s approach and works closely with DFAT. But, CPIT appreciates the need to compare and contrast sources. In CPIT’s view, the treatment of those inside and outside of Rakhine State has been different since August 2017.</p> <p>LD: The DFAT report’s portrayal of the situation is very restrictive if claimants have to prove an individual case of persecution. Those outside of Rakhine State have a problem obtaining documents and so cannot access healthcare, education, housing etc. Many do not disclose they are Rohingya unless they are in safe company.</p> <p>CO: CPIT should use the reviewer as a source.</p>	<p>LD to send further sources and info to LH</p>

	<p>JV: Re paragraph 2.8 – where the reviewer suggests a source is inaccurate this should be considered carefully.</p> <p>MS: This raises the question of how you weight sources and how accurate one source is compared with another, and CPIT is slightly nervous about weighting sources.</p> <p>KR: The reviewer has given specific reasons why the DFAT report is inaccurate. It is not a case of personal opinion, there is evidence that it is inaccurate.</p> <p>CO: It is acceptable to say that there is lack of consistency in the evidence and so it is not possible to draw conclusions.</p> <p>LD: It would be helpful to review the references to Rohingya in Rakhine State and determine where these apply to Rohingya in general, including those outside Rakhine State.</p> <p>LD: ‘Critics of the government’ is a very good report. It is balanced and accurate and shows good knowledge of the issues. There are fewer concerns about the accuracy of DFAT report in this case. But, more arrests are happening now than when the report was written, so an update is required.</p> <p>Paragraph 8.3 – LD offered more examples of where people have been convicted in an attempt to restrict expression. These highlight the frequency with which this was happening and raise the question of whether people will receive a fair trial. LD provided a further source on the monitoring of fair trial standards.</p> <p>Paragraph 10.5.4 – CPIT had requested further sources, but these are a bit more difficult to obtain. LD’s knowledge is very much word of mouth and she is not aware of written sources but will ask her contacts. There might be Burmese sources, but LD was not aware of any in English.</p> <p>MS: CPIT found the review fair and balanced and has largely accepted reviewer’s comments. The reviewer’s suggestions will be taken on board.</p> <p>LD: CPIT’s responses to comments on the COINs address her concerns.</p>	
4. Iraq	AG: The CPINs were good and the review reflects that.	

<p>reviews</p>	<p>However, the CPINs rely on very few sources of information, in particular a letter from the British Embassy. Some additions could be made and these have largely been accepted by CPIT.</p> <p>Context is very important. It is difficult to get decent reports on certain crimes. Entry requirements to some governates are arbitrary and can depend on the officer on duty at the time. Also, the situation can change very rapidly.</p> <p>The Kurdish authorities have never presented to anyone a written state of regulations for entry. It has never existed.</p> <p>KR: Where the situation is not entirely clear because of contradictory sources, or because it is constantly changing, it may help to emphasise this in the CPIN.</p> <p>UNHCR information comes from what is happening on the ground rather than any written submissions.</p> <p>MS: CPIT understands the arbitrary nature of entry requirements. Norwegian counterparts were in Iraq in summer 2018 and confirmed this.</p> <p>LH: it is therefore important to caveat the CPIN.</p> <p>MC: Correspondence from the British Embassy is referred to often and seems to be a significant source, which is relatively unusual. What was the context?</p> <p>MS: The Home Office had specifically requested it.</p> <p>AG: Relating to 'Internal relocation', there was some debate whether the ID document is a "booklet" or a "card/certificate" as it did not have pages like a booklet.</p>	
<p>6. Next countries for review</p>	<p>Pakistan (reviews already completed) Ethiopia Jamaica</p>	
<p>7. Date of next meeting</p>	<p>To be arranged. (Provisional date subsequently agreed – 30 April 2019)</p>	

Annex B

Biographies of the Reviewers

Laura Draper (Burma)

Laura Draper is a Burma-based legal consultant with expertise in human rights and immigration/asylum law. She currently works as an international Legal Advisor for Justice Base, focusing on citizenship, fair trial rights and freedom of expression in Burma. She is also the Burma Country Advisor for the International Senior Lawyers Project (ISLP), through which she supports civil society organisations engaged on land rights issues. Laura previously practised asylum, immigration and public law with Wilson Solicitors LLP in the UK. She holds an LLM in International Law and Human Rights from the University of Groningen and an MA (Cantab) in Oriental Studies from the University of Cambridge.

Alan George (Iraq)

Alan George gained his first degree, in Geography, from Oxford University in 1970. He obtained his Master's degree (on Middle East Geography) at Durham University in 1972, and his PhD, on Syria, also at Durham in 1978. Since 1984 he has worked as a freelance journalist, researcher and expert witness in political asylum cases involving the Middle East. As a journalist, he contributed to a wide range of UK and international publications, including the Observer, the Independent, and the Guardian newspapers, and he frequently commentates on Middle Eastern affairs for radio and television. He is a former Head of Research at the Arab-British Chamber of Commerce and a former Assistant Director of the Council for the Advancement of Arab-British Understanding (CAABU). In 2003-13 he was a Senior Associate Member of St Anthony's College, Oxford University. In November 2013, he was appointed Senior Visiting Research Fellow in the Department of Middle Eastern Studies at London University's King's College.

Kudzai Chatiza (Zimbabwe)

Kudzai Chatiza is a Zimbabwean development professional with almost 25 years experience of development planning and management in Zimbabwe and other east and southern African countries, including working for the Government of Zimbabwe (1991-92) and for local and international non-governmental organisations. Kudzai is involved in offering development research and advisory (consultancy) services in Africa for governments, UN agencies and civil society organisations and teaches part-time at the University of Zimbabwe (Planning School) and at the Midlands State University (Local Government Studies). He has qualifications in Rural and Urban Planning (University of Zimbabwe, Bachelor's and Master's degrees) and Development Studies (Swansea University, PhD).

Annex C

Annex C: Review of the November 2017 Home Office Country of Origin Information on Burma: Rohingya

Prepared for the Independent Advisory Group on Country Information (IAGCI)

Reviewer: Laura Draper, Independent Consultant
November 2018

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1 Introduction

1.1 Instructions

This review provides a commentary on the November 2017 Home Office Country of Origin Information on Burma: Rohingya produced by the Home Office. The review is commissioned by the Independent Advisory Group on Country Information and is therefore drafted in line with instructions received through the IAGCI Chair, Dr Laura Hammond.

I have been instructed to:

- assess the extent to which information from source documents has been appropriately and accurately reflected in the Country Policy and Information Notes (CPIN);
- identify additional sources detailing the current human rights situation in Burma with respect to main grounds for asylum claims;
- note and correct any specific errors or omissions of fact; and
- make recommendations for general improvements regarding, for example, the structure of the report, its coverage or its overall approach.

In undertaking this Review, I have been conscious that the Home Office's CPIN are focussed on particular themes and are not intended as general country of origin information reports.

I have been instructed to keep my comments to the cut-off date of 21 September 2017. With this in mind, I have provided recommendations for additional sources that could be consulted in updating guidance.

This review does not attempt to comment on Home Office policy guidance, which falls outside the scope of the instructions.

1.2 Methodology

This review has been conducted by checking the content of the report for factual accuracy, checking the citations in the report as well as the original documents from which they are drawn, and ensuring that they have been quoted accurately. The sources have been checked for balance and some alternative, open access sources have been recommended where I consider that the report could benefit from more balance or detail.

Given the rapidly changing nature of the country situation in Burma, I have also suggested more recent open-access sources that could be consulted in any future updated CPIN.

1.3 Summary of Review

Overall, I find this report to be an accurate and balanced assessment based on information available at the cut-off date for the CPIN report. There are some factual inaccuracies which I have highlighted in detail below, particularly in relation to legal rights. The updating material following the attacks in August 2017 is impressive given its timely responsiveness, but will require further updating in light of information published since the cut-off date.

In general, while most sources consulted are reliable, the report could benefit from a wider range of sources. More detail is provided below. The structure of the report is clear and navigable. However, I consider that there is inadequate detail with respect to the situation of Rohingya outside of Rakhine state. There is also a lack of clarity in other sections as to whether they relate to the situation for Rohingya within Rakhine state only, or also to those outside of Rakhine state.

Key recommendations include:

- i. To amend section 5 on legal rights to ensure factual accuracy, in particular sections 5.1 and 5.2 on *'Citizenship'* and *'Identity documents'*.
- ii. To update section 6.7 on events in Rakhine in August 2017, 6.10 on *'Accountability'* and section 12 on *'Rohingyas in Bangladesh'* with reference to material published from fact-finding missions and documentation after the cut-off date.
- iii. To add detail and amend section 11 on *'Rohingyas outside Rakhine state'*.
- iv. To re-arrange the structure of the report, in particular to expand the section relating to *'Rohingya outside Rakhine state'*, and to link that section to the current section 7 relating to *'Societal treatment and attitudes'*.

1.4 Understanding of the themes addressed in the CIG Reports

In general, the report reflects prevalent legal usage and academic understanding of the themes considered.

However, there are shortcomings in the descriptions of legal rights of Rohingya people, including factual inaccuracies relating to the legal criteria for citizenship, how Burma's citizenship law applies to Rohingya people, and identity documentation. These appear to have arisen from the complexity of the citizenship legal regime itself, its over-simplification in some of the source material referenced in the CPIN, and inaccurate or para-phrased citations.

In addition, a number of reports have been released over the past year which shed further light on the events in Rakhine in August 2017, and which contradict some of the narrative relied on in the CPIN. Further detail is set out in the analysis of individual sections below.

1.5 Quality and balance of sources

Overall, I find this report to cite a balanced and reliable selection of sources which are generally of high quality and relevant to the time period covered by the CPIN.

Nevertheless, I consider that the report could benefit from reference to a wider range of sources, particular given the large number of NGOs on the ground in Burma and Bangladesh who have been working closely with and reporting on the issues and events covered by the report. I have suggested additional references, although many were published after the cut-off date of the report.

I note that repeated reference is made to the reports of the Australian Government's Department of Foreign Affairs and Trade ('DFAT') and the US Department of State 'Country Report on Human Rights Practices for 2016- Burma' throughout this CPIN. While most of the details cited appear to be accurate (with the exception of paragraph 11.1.1 as set out in section 2.8 below), it is worth noting that neither report provides specific citations or primary sources for any material. I would recommend that where possible, an additional corroborating source should be provided to supplement or replace references to the DFAT and US Department of State reports.

2 Review

2.1 Background section

Section 4 provides a balanced and sensitive overview to the background of the Rohingya population in Burma, and refers to useful additional sources. I have no major concerns about this section, but in light of the sensitivities and controversy surrounding recognition of Rohingya as an ethnicity, I have suggested some amended wording to be clear that the Burmese government and Rakhine Buddhist official position on the origin of the term is not the globally accepted view.

<p><u>4.1.3</u> <i>‘Both the Burmese government and Rakhine Buddhist representatives explained to the Special Rapporteur during her January 2015 mission to Burma that the term “Rohingya” has no historical or legal basis.’</i> Whilst I acknowledge that this reflects the wording in the original source, I would suggest inserting wording to clarify that this is the ‘position’ or ‘view’ of the Burmese government and Rakhine Buddhist representatives, to be clear that this is not a universally accepted viewpoint.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>4.2.1</u> The web-link at footnote 7 was not accessible at the time of the review.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p>The page number provided at footnote 8 is incorrect. The relevant information is contained at page 16.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>4.2.2</u> <i>‘An estimated 1 million Rohingya account for around 30 per cent of Rakhine’s population, whilst their total number in Burma reportedly exceed 2 million.’</i> I suggest adding ‘Before August 2017’ to the start of this sentence, as the estimate will have decreased since around 700,000 Rohingya refugees fled Rakhine following the violence at that time. It may be worth noting that the original source cited has been amended in the same way.</p>	<p>Accepted. We will update the CPIN following this review to reflect the change in population.</p>
<p><u>4.2.2</u> Footnote 14: I suggest citing the original census itself: Department of Population, Ministry of Immigration and Population, ‘Myanmar Population and Housing Census, The Union Report’, May 2015</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>4.4.2</u> The web-link at footnote 28 was not accessible at the time of the review. It seems to have changed to: https://travel.state.gov/content/travel/en/us-visas/Visa-Reciprocity-and-Civil-Documents-by-Country/Burma.html</p>	<p>Accepted. We will address this point when we update the CPIN. Thank you for providing the updated link.</p>

2.2 Legal Rights

Section 5 deals with the complex legal regime governing citizenship law and documentation. Whilst it cites a range of sources, some details are factually inaccurate and internally inconsistent. More detail is provided with reference to individual sections below.

<p><u>5.1.1</u> <i>'Though recognised as citizens under the 1947 Constitution and Union Citizenship Act 1948'</i> This wording could be read to imply that all Rohingya in Burma were recognized as citizens under the 1947 Constitution and the 1948 Citizenship Act. It is correct that many, but not all, Rohingya were recognized as citizens under these laws, either by virtue of having resided in Burma for three generations (Article 4(2) of the 1948 Act) or having applied to naturalize on the basis of 5 years residence in Burma (Article 7 of the 1948 Act). I recommend that this be re-phrased to avoid misunderstanding.</p>	<p>Accepted. We will address this point when we update the CPIN. Thank you for the clarification.</p>
<p>Footnote 31 is incorrectly cited as stating that <i>'the 1974 Emergency Immigration Act stripped many Rohingya of their Burmese nationality by replacing their national registration certificates with foreign registration cards.'</i> The source in fact states that <i>'the 1974 Emergency Immigration Act stripped the Rohingya of their national registration certificates and replaced them with foreign registration cards.'</i> Although it is commonly felt that National Registration Cards (NRCs) were proof of citizenship (and by deduction this would appear to be the case due to the fact the Foreign Registration Cards (FRCs) were being issued to foreigners at the same time), they were in fact only explicit proof of residency. What determined whether someone was a citizen was the 1948 law itself.</p>	<p>Accepted. We will address this point when we update the CPIN. Thank you for the clarification.</p>
<p><u>5.1.2</u> I was unable to verify this source as the <i>'Responses'</i> to the article on the web-link provided were not accessible at the time of the review. However, although published since the cut-off date, the same author has made similar arguments in his contribution Tonkin, D., <i>'Exploring the Issue of Citizenship in Rakhine State'</i> in South, A. and Lall, M. (eds), <i>Citizenship in Myanmar: Ways of Being in and from Burma</i>, ISEAS Publishing Singapore, 2018.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>5.1.3</u> This section should also cite the law to which it refers, specifically section 42 of the 1982 Citizenship Act, which states that <i>'Persons who have entered and resided in the State anterior to 4th January, 1948, and their offspring born Within the State may, if they have not yet applied under the Union Citizenship Act, 1948, apply for naturalized citizenship to the Central Body, furnishing conclusive evidence.'</i></p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>5.2.1</u> I would recommend that the phrase <i>'Due to their lack of citizenship status'</i> be amended to <i>'Due to their lack of recognition as citizens'</i> or similar. This is because technically many Rohingya could be citizens under the law (by virtue of section 6 of the 1982 Act which states that <i>'a person who is already a citizen on the date this Law comes into force is a citizen'</i>), but the authorities refuse to acknowledge this and provide them</p>	<p>Accepted. We will address this point when we update the CPIN. Thank you for the clarification.</p>

with documentation.	
<p><u>5.2.1</u></p> <p>The International Crisis Group (ICG) report is cited as saying that the failure to issue Citizenship Scrutiny Cards (CSCs) to Rakhine Muslims in exchange for their NRCs was <i>'not in accordance with law'</i>. I recommend that this be amended to <i>'not in accordance with <u>international</u> law'</i>. Whilst this is a direct quote from the ICG report, that report itself referenced the Report of the Special Rapporteur on the situation of human rights in Myanmar of 2008 (appended to UN General Assembly document A/63/341, 5 September 2008, paras. 61 and 101(a)) which stated that the actions contravened <u>international</u> law. As far as I am aware, there was no domestic legislation preventing these actions.</p>	<p>Accepted. We will address this point when we update the CPIN. Thank you for the clarification.</p>
<p><u>5.2.4</u></p> <p>Although the article cited from the Myanmar Times at footnote 44 refers to NVCs as 'green cards', they are more commonly known as 'turquoise cards' (possibly to avoid confusion with the Naturalised citizenship scrutiny cards, which are green).</p> <p>This paragraph states that: <i>'despite being informed that the green cards would allow holders to travel more freely, some Rohingya were resistant to accepting the new cards – in exchange for their white cards – as they refused to identify as Bengali.'</i> Whilst this may be one rationale, there are myriad reasons why many Rohingya have rejected the NVC process. See for instance, this analysis on p. 27 of the Final Report of the Advisory Commission on Rakhine State (available at: http://www.rakhinecommission.org/): <i>'Muslims, on the other hand, object to the NVC as an interim step that will subsequently qualify holders to apply for citizenship at some point in the future. They are worried that this procedure follows a familiar pattern of successive Myanmar governments issuing documents with a promise that citizenship will follow, with the latter repeatedly failing to materialize. Many are also reluctant to hand in their existing documents for fear of being left undocumented. Others have lost their previous identification documents, and are apprehensive that a process which is not based on bona fide will simply be used against them. Trust is also undermined by the lack of tangible benefits for those who successfully go through the process, as verified Muslim citizens continue to face travel restrictions and other forms of discrimination.'</i></p> <p>I suggest that this paragraph be amended to reflect the range of reasons for the lack of uptake of the documents.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>5.2.6</u></p> <p>This paragraph refers to ICNVs, also known as <i>'turquoise cards'</i>. These are the same as NVCs referred to in 5.2.4. To avoid confusion, I suggest that the CPIN should clarify that NVCs and ICNVs are the same, and that this paragraph be merged with 5.2.4.</p>	<p>Accepted. We will address this point when we update the CPIN. Thank you for the clarification.</p>
<p><u>5.2.7</u></p>	<p>Accepted. We will update the CPIN</p>

<p>This paragraph states that because of the low uptake rate of NVCs <i>‘the majority of Rohingya remain undocumented (apart from their household registration lists)- or holding receipts for their TRCs- and are effectively stateless, not being recognised as citizens of Myanmar.’</i></p> <p>It is important to clarify that the holding of a NVC does not mean that a person is recognised as a citizen. Holders of NVCs are still <i>de facto</i> stateless unless they are later issued with a scrutiny card after undergoing a verification process. NVCs are considered to be the first stage in the citizenship scrutiny process for anyone who is not considered to be a citizen.¹ I am not aware of any open source statistics on how many NVC holders have later been granted CSCs following scrutiny, but please see: UN Human Rights Council, ‘Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar’, A/HRC/39/CRP.2, 17 September 2018, pp. 116-117, available at: https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx.</p>	<p>following this review and incorporate suggested material.</p>
<p><u>5.3</u></p> <p>In the interests of clarity, I would suggest that an introduction be added to this section to clarify that there exist population control measures in Rakhine state imposing restrictions on marriage and the number of births per household.</p>	<p>Partially accepted. It is not general practice to summarise the situation by way of an introduction. However, we will clarify the position in our assessment (policy guidance).</p>
<p><u>Additional/ updating sources</u></p> <p>Smile Education and Development Foundation and Justice Base, <i>Access to Documentation and Risk of Statelessness</i>, December 2017, available at: http://justicebase.org/wp-content/uploads/2018/03/2017-Report-on-Access-to-Documentation-and-Risk-of-Statelessness.pdf</p> <p>Frontier Myanmar, ‘For Muslims across Myanmar, citizenship rights a legal fiction’, 29 December 2017, available at: https://frontiermyanmar.net/en/for-muslims-across-myanmar-citizenship-rights-a-legal-fiction</p> <p>Justice Base, <i>A Legal Guide to Accessing Citizenship Documentation</i>, December 2018 [not yet published]</p> <p>Nyi Nyi Kyaw, ‘Unpacking the Presumed Statelessness of Rohingyas’, <i>Journal of Immigrant & Refugee Studies</i>, 15(3) 269–286, at 276 (2017))</p> <p>Jose Maria Arraiza & Oliver Vonk, ‘Report on Citizenship Law: Myanmar’, October 2017, available at: http://cadmus.eui.eu/bitstream/handle/1814/48284/RSCAS_GLOBALCIT_CR_2017_14.pdf?sequence=1</p> <p>Tonkin, D., ‘Exploring the Issue of Citizenship in Rakhine State’ in South, A. and Lall, M. (eds), <i>Citizenship in Myanmar: Ways of Being in and from Burma</i>, ISEAS Publishing Singapore, 2018</p> <p>Islam, N., ‘Special Contribution: Rohingya and Nationality Status in Myanmar’, in South, A. and Lall, M.</p>	<p>Thank you for the additional sources, which we will review and consider for the next update.</p>

¹ Human Rights Watch, *Burma: Government Plan Would Segregate Rohingya*, 3 October 2014, available at: <https://www.hrw.org/print/263387>; see also Myanmar Ministry of Information, ‘Formation of the Steering Committee for issuance of National Verification Card (NVC) in Rakhine State for those who will undergo verification for citizenship’, 8 February 2017, available at: <http://www.moi.gov.mm/moi/eng/?q=announcement/9/02/2017/id-9873>

(eds), *Citizenship in Myanmar: Ways of Being in and from Burma*, ISEAS Publishing Singapore, 2018
 UN Human Rights Council, 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', A/HRC/39/CRP.2, 17 September 2018, available at:
<https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx>

2.3 State Treatment and Attitudes - Rakhine State

Section 6 is impressive in scope, providing a summary of the events starting in October 2016 and starting in August 2017. I have some comments on the structure and language of this section. However, my main concerns with this section relate to a need to update the narrative of the events in August 2017 with reference to new reports based on human rights documentation initiatives and fact-finding missions published since the cut-off date of the report. Some updating references are also provided.

<p><u>6.1.1</u> It may be worth noting that the UN Human Rights Council has met on several occasions since August 2017, including having established a UN Fact-finding mission whose report was released in September 2018.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>6.4.3 to 6.4.8</u> These paragraphs relate to the government response to the attacks on the border posts in October 2016. As such, I would suggest that they be moved to section 6.5 on '<i>Response to October 2016 Attacks</i>'.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>6.5.10</u> The web-link provided in footnote 84 was not accessible at the time of this review.</p>	<p>Accepted. We will address this point when we update the CPIN. The same AFP article is available at https://tribune.com.pk/story/1342823/myanmar-govt-swats-away-biased-un-abuse-claims/</p>
<p><u>6.7</u> Whilst acknowledging that the COI was clearly updated in haste following the violence in August 2017, and at a time when limited details were available about the events, I strongly recommend that any future guidance provide further detailed information and reference to a wider range of sources that have been published since the cut-off date. I have provided a list of suggested references below.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>6.7.1</u> The CPIN presents a narrative indicating that the attacks of August 2017 were a retaliatory effort against a Rohingya terrorist group (known as the Arakan Rohingya Salvation Army (ARSA)) following their own coordinated attack on 25 August 2017. Although perhaps not the prevailing narrative at the cut-off date of the COI guidance, documentation</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>

and fact-finding exercises since August 2017 have revealed a degree of planning of the attacks by the Burmese military (the Tatmadaw) that indicate that the ARSA attacks were not so much the catalyst of the violence, but instead provided a convenient excuse for the long-anticipated violence to commence. For instance, the Public International Law and Policy Group (PILPG) has concluded that the *'the chronology, speed, and widespread scope of the attacks, as well as the systematic and exclusive targeting of all Rohingya people suggest that the Myanmar armed forces were carrying out a planned, coordinated, and systematic attack against the Rohingya for which the ARSA attacks provided a convenient justification.'*²

A report by Fortify Rights corroborates this view, finding strong evidence that the military had been systematically planning the attacks. For instance, having already limited access to northern Rakhine state for humanitarian organisations since October 2016, in the months leading up to the attacks in August 2017, the government further suspended aid activities including food supplies thus physically and mentally weakening Rohingya civilians, and removing international observers from the region. In addition, accounts state that the military tore down fences surrounding Rohingya housing settlements, confiscated sharp and blunt objects from Rohingya civilians, armed and trained non-Rohingya residents of Rakhine, and deployed additional troops to the region in the months between November 2016 and August 2017. Fortify Rights views these as preparatory measures for the coordinated, systematic attacks which took place from August 2017.³

Even before the cut-off date, however, it was clear that any so-called *'clearance operations'* were hugely disproportionate, where hundreds of thousands of civilians were killed, injured, raped and/or forced to flee their homes. Indeed the use of the word *'Clashes'* in the title of this paragraph indicates a degree of equality of arms. I would suggest a more appropriate title would include reference to *'Attacks'* or even *'Atrocities'* rather than *'Clashes'*.

6.7.4

A UN News Service article is cited as estimating *'415,000 people had crossed the border into Bangladesh since late August.'* Whilst the final estimates may not have been available at the cut-off date of the report, later estimates were in the range of 700,000.

Accepted. We will address this point when we update the CPIN.

² Public International Law and Policy Group, *Documenting Atrocity Crimes Committed Against The Rohingya In Myanmar's Rakhine State- Factual Findings*, September 2018, available at: <https://www.publicinternationallawandpolicygroup.org/rohingya-report/>

³ Fortify Rights, *They Gave them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar*, July 2018, available at: https://www.fortifyrights.org/downloads/Fortify_Rights_Long_Swords_July_2018.pdf

<p><u>6.8.1</u> Some of the information in this paragraph relates to violence against women within Rohingya society, and not at the hands of the State. This falls outside the scope of section 6 of the report, as it does not relate to State treatment.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>6.8.2</u> Footnote 101 incorrectly refers to page 9 of the Amnesty report. The correct pages for this content are pages 8 and 24-26.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>6.10</u> The outline of attempts at accountability is accurate and balanced up to the cut-off date of the COI. I would recommend that this section be divided into <i>‘Domestic accountability’</i> and <i>‘International accountability’</i> or similar. Whilst the fact that the UN established a Commission to investigate the events of August 2017 is relevant to an assessment of the severity of the events and the international community’s response, it does not reflect accountability within Burma itself. For future guidance, I note that although various gestures towards accountability have been made by the government, none have been considered to be adequate and they have instead been widely viewed as exercises in obfuscating the truth. The Burmese authorities have continued to deny responsibility for the violence, and have refused to accept the extent of the atrocities presented in the narrative emerging in reports by NGOs and the UN Fact-finding mission. A Committee for the Implementation of The Recommendations on Rakhine State was formed on 12 September 2017, and an Advisory panel to the Committee was established on 14 December 2017. It is worth noting that US Diplomat Bill Richardson resigned from the panel in January 2018, citing the panel as a <i>‘whitewash’</i>.⁴ Another senior member, Kobsak Chutikul resigned from the advisory panel in July 2018, <i>‘citing a lack of progress and expressing frustration at the lack of any independent mechanism by which to monitor implementation of the panel’s recommendations’</i>.⁵ Furthermore, the government appointed a Commission of Inquiry in 2018 to investigate allegations of human rights abuses in Rakhine state. The Commission announced in August 2018 that it would report back in a year. The effectiveness of this Commission remains to be seen, but Phil Robertson of Human Rights Watch has commented that the Burma government <i>‘has a record of creating do-nothing commissions that absolve state forces of human rights violations, and lack independence and expertise.</i></p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>

⁴ BBC News, ‘Rohingya crisis: US diplomat quits advisory panel’, 25 January 2018, available at: <https://www.bbc.co.uk/news/world-asia-42810776>

⁵ The Irrawaddy, ‘With Departure from Rakhine Advisory Panel, Kobsak Sends a ‘Warning Signal’, 24 July 2018, available at: <https://www.irrawaddy.com/in-person/with-departure-from-rakhine-advisory-panel-kobsak-sends-a-warning-signal.html>

<p>Moreover, little is clear about this specific commission other than its members and vague expressions of its mission.⁶ The International Commission of Jurists has also reported very serious doubts about the likely effectiveness of the Commission.⁷</p> <p>Additionally, I note that the International Criminal Court has opened investigations into Burma since deciding in September 2018 that it holds jurisdiction over the alleged deportation of Rohingya to Bangladesh.⁸ However, this is unlikely to assist any of the victims in the near-term.</p>	
<p><u>6.10.2</u> The word ‘commissions’ is missing an apostrophe.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>6.10.4</u> The Advisory Commission was founded in September 2016 (not August as stated).</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>6.11.1</u> I would suggest reference to additional sources which corroborate that there is a lack of adequate remedy or avenue of redress for gross human rights violations in Burma. The following source may be of assistance: Women’s League of Burma (WLB) and Asia Justice and Rights (AJAR), <i>Briefing Paper Access to Justice for Women Survivors of Gender-based violence committed by state actors in Burma</i>, 24 November 2016, available at: http://www.asia-ajar.org/files/VAW%20Briefing%20Paper-%20English%20Version.pdf</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>Additional/ updating sources:</u> UN Human Rights Council, ‘Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar’, A/HRC/39/CRP.2, 17 September 2018, available at: https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx Fortify Rights, <i>They Gave them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar</i>, July 2018, available at: https://www.fortifyrights.org/downloads/Fortify_Rights_Long_Swords_July_2018.pdf Public International Law and Policy Group, <i>Documenting Atrocity Crimes Committed Against The Rohingya In Myanmar's Rakhine State- Factual Findings</i>, September 2018, available at: https://www.publicinternationallawandpolicypgroup.org/rohingya-report/</p>	<p>Thank you for the additional sources, which we will review and consider for the next update.</p>

⁶ Frontier Myanmar, ‘Rakhine Commission of Enquiry to report back in a year’, 17 August 2018, available at: <https://frontiermyanmar.net/en/rakhine-commission-of-enquiry-to-report-back-in-a-year>

⁷ International Commission of Jurists, *Myanmar: New Commission of Inquiry Cannot Deliver Justice or Accountability, International Response Required*, 7 September 2018, available at: <https://www.icj.org/wp-content/uploads/2018/09/Myanmar-COI-cannot-deliver-justice-or-accountability-Advocacy-Analysis-brief-2018-ENG.pdf>

⁸ International Criminal Court, ‘ICC Pre-Trial Chamber I rules that the Court may exercise jurisdiction over the alleged deportation of the Rohingya people from Myanmar to Bangladesh’, 6 September 2018, available at: <https://www.icc-cpi.int/Pages/item.aspx?name=pr1403>

<p>Amnesty International, <i>“We Will Destroy Everything”: Military Responsibility for Crimes Against Humanity in Rakhine State, Myanmar</i>, 27 June 2018, available at: https://www.amnesty.org/en/documents/asa16/8630/2018/en/</p> <p>International Commission of Jurists, <i>Myanmar: Questions and Answers on Human Rights Law in Rakhine State Briefing Note</i>, November 2017, available at: http://www.burmalibrary.org/docs23/ICJ-2017-11-Rakhine-Advocacy-Briefing-Paper-2017-en-.pdf</p> <p>US Department of State, <i>Documentation of Atrocities in Northern Rakhine State</i>, 24 September 2018, available at: https://www.state.gov/j/drl/rls/286063.htm</p>	
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2.4 Societal treatment and attitudes

Section 7 is a balanced and accurate summary of treatment and attitudes towards Rohingya within society in Burma up to the cut-off date of the report. I have very few comments on this section.

<p><u>General comment on structure</u></p> <p>Although not expressly stated in the heading, section 7 appears to relate to societal treatment and attitudes both inside and outside of Rakhine state. Sections 8- 10 all appear to relate to the situation within Rakhine state only. I would suggest that this section be moved to immediately before or after section 11, which relates to <i>‘Rohingyas outside Rakhine state’</i>.</p>	<p>Accepted. Thank you for the suggestion. We will reconsider the structure of the report in the next update.</p>
<p><u>7.1.1</u></p> <p>It may be worth noting that the Human Rights Council has met on several occasions since August 2017, including having established a UN Fact-finding mission whose report was released in September 2018.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>7.2.4</u></p> <p>The weblink provided at footnote 124 was not available at the time of the review.</p>	<p>Accepted. We will address this point when we update the CPIN. The same UN News article is available at https://news.un.org/en/story/2014/01/460282-top-un-officials-call-probe-latest-violence-myanmars-rakhine-state</p>
<p><u>Additional/ updating sources:</u></p> <p>UN Human Rights Council, ‘Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar’, A/HRC/39/CRP.2, 17 September 2018, available at: https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx</p> <p>Francis Wade, <i>Myanmar's Enemy Within: Buddhist Violence and the Making of a Muslim 'Other'</i>, Zed Books, 15 August 2017</p>	<p>Thank you for the additional sources, which we will review and consider for the next update.</p>

2.5 Humanitarian situation

To the best of my knowledge, section 8 is a balanced and accurate summary of the humanitarian and displacement situation in Rakhine state at the cut-off date of the report. This section does not address the situation for those outside of Rakhine state. I would recommend that the heading be changed to reflect that. I have set out a few specific comments below.

As a general comment, it may be worth noting that many concerns have been raised of a situation of ‘apartheid’ developing in Rakhine state, which has been reinforced by the existence of the IDP camps and restrictions of freedom of movement of the residents of the camps.⁹ This will be relevant to the availability of safe return and internal relocation, and should be highlighted.

<p><u>8.1.3</u> This section might be more appropriately located in section 9 on ‘Access to Services’.</p>	<p>Partially accepted. Whilst we already cross-reference to the section on Healthcare, we will also look to move the information on access to general medical services to that section.</p>
<p><u>8.1.6</u> The recommendation of the Advisory Commission on Rakhine State to close IDP camps was in their report of March 2017, not April 2017 as cited. I recommend referring to the primary source: Advisory Commission on Rakhine State, Interim Report and Recommendations, March 2017, p. 12, available at: http://www.rakhinecommission.org/app/uploads/2017/03/Advisory-Commission-Interim-Report.pdf</p>	<p>Accepted. We will address this point when we update the CPIN and incorporate suggested material.</p>
<p><u>8.2.2</u> The citation indicates that, ‘<i>after a three month interruption... the Government has been permitting an incremental resumption of some activities.</i>’ Unfortunately, this appears to have been a momentary resumption of activities, before humanitarian aid was restricted again in the months prior to the attacks in August 2017.¹⁰</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p>Footnote 140 cites the incorrect paragraph. The information is contained in paragraph 1d, not 1f.</p>	<p>Accepted. We will address this point when we update the CPIN (the information appears in section 2d)</p>

⁹ See e.g. Amnesty International, ‘*Caged without a Roof*’ *Apartheid in Myanmar’s Rakhine State*, 2017, available at: <https://www.amnesty.org/download/Documents/ASA1674842017ENGLISH.PDF>; and Frontier Myanmar, ‘As camps close in Rakhine, humanitarians fear complicity in permanent segregation’, 13 October 2018, available at: <https://frontiermyanmar.net/en/as-camps-close-in-rakhine-humanitarians-fear-complicity-in-permanent-segregation>

¹⁰ See e.g. Fortify Rights, *They Gave them Long Swords: Preparations for Genocide and Crimes Against Humanity Against Rohingya Muslims in Rakhine State, Myanmar*, July 2018, available at: https://www.fortifyrights.org/downloads/Fortify_Rights_Long_Swords_July_2018.pdf

2.6 Access to Services

Section 9 provides a helpful and balanced overview of access to services for Rohingya in Rakhine state. It does not address the situation for those outside of Rakhine state. I would suggest that the heading be changed to reflect that.

Accepted. We will address this point when we update the CPIN.

2.7 Freedom of Movement

Section 10 provides an accurate and balanced summary of the restrictions on free movement placed on Rohingya in Rakhine state. It does not address the situation for those outside of Rakhine state. I would suggest that the heading be changed to reflect that.

Accepted. We will address this point when we update the CPIN.

<p><u>10.1.6</u></p> <p>This paragraph indicates that freedom of movement improved following the attacks in August 2016. It is notable that the citation itself refers to free movement within very small areas within Rakhine state itself, and not to areas outside of Rakhine.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>10.1.7</u></p> <p>This paragraph is misleading. Although free movement may have momentarily improved in or around February 2017, my understanding is that there continue to be severe restrictions on the free movement of Rohingya in Rakhine state. It may be worth noting that in the past year there have been a number of reports of Rohingya residents of Rakhine being arrested and charged for failing to obtain permission to travel, but that outstanding applications for permission to travel are not processed promptly, if at all.¹¹</p>	<p>Accepted. We will address this point when we update the CPIN and incorporate the suggested material. [This existing paragraph should also have been part of 10.1.6]</p>

2.8 Rohingyas outside Rakhine State

Section 11 is problematic, both in terms of its scope and factual accuracy.

I note the Policy Guidance in relation to Rohingyas outside of Rakhine state at paragraph 2.2.12 which states that they will need to '*demonstrate that their personal circumstances are such that they would face a level of discrimination that would amount to persecution*'. In light of this, this section would benefit from being supplemented with additional material to assist caseworkers with assessing whether an asylum applicant's fear of persecution is well-founded.

¹¹ See e.g. The Irrawaddy, Muslim Teacher Falls Victim to Travel Restrictions in Rakhine, 1 June 2018 available at: <https://www.irrawaddy.com/news/burma/muslim-teacher-falls-victim-to-travel-restrictions-in-rakhine.html>

In particular, it is important to note that Rohingya across Burma face discrimination on the basis of their ethnicity. This is reflected in section 7 on *'Societal treatment and attitudes'*, to which section 11 should cross-refer.

Rohingya throughout Burma face challenges accessing legal documentation which can lead to restrictions on free movement, access to education, healthcare and other services. More detail and references are provided below. Section 11 could also cross-refer to the CPIN on Burma: Critics of the Government which will be particularly relevant to Rohingya activists outside of Rakhine state.

11.1.1

This paragraph cites a report of the Australian Department of Foreign Affairs and Trade (DFAT) which is both vague and factually inaccurate.

The citation states that Rohingya outside Rakhine state *'are typically able to obtain identity documentation that allows them to live and work without facing the high levels of discrimination otherwise experienced by Rohingya in their day-to-day life.'* This is inaccurate and contradictory to sources elsewhere in the CPIN, for instance at paragraph 5.2.1.

Firstly, it is unclear to which documentation the DFAT report is referring. If citizenship documentation, as noted in section 2.2 above, Rohingya will not be entitled to this under the 1982 Act unless they were already citizens under the 1948 law (for full citizenship), they are able to *'furnish conclusive evidence'* of their family's residence in Burma prior to 1948 (for naturalized citizenship), or if they previously made an application that was not determined under the 1948 Act before 1982 (for associate citizenship).

Alternatively, the report may be referring to White Card receipts (which were issued in exchange for Temporary Residence Cards in 2015) or NVCs, both of which are merely proof of residence and not of citizenship, and therefore do not entitle the owner to equal rights to employment, education and free movement etc.

Secondly, it is not the case that Rohingya are *'typically able'* to obtain any such documentation. For further information, please refer to: Smile Education and Development Foundation and Justice Base, *Access to Documentation and Risk of Statelessness*, December 2017, available at: <http://justicebase.org/wp-content/uploads/2018/03/2017-Report-on-Access-to-Documentation-and-Risk-of-Statelessness.pdf>

The same paragraph cites the DFAT report stating that *'typically, Rohingya in Yangon are registered as "Burmese Muslims"'*. Again, it is not possible to verify the source of this statement due to the lack of references in the DFAT report. However, the above-noted research by Smile Educational Development Foundation and Justice Base documented many cases of Burmese Muslims facing challenges with obtaining documentation, including being told when applying for citizenship documentation that they cannot register as Burmese Muslim because the immigration officials do not accept that one can be both Burmese and Muslim at the same time. I have heard numerous similar accounts whilst delivering workshops on accessing citizenship documentation in communities in Yangon and four other locations between August and

Partially accepted. Whilst we attempt to provide accurate information, sources may also be contradictory. In such cases we aim to reach a view in the assessment. We thank the reviewer for clarifying the position and will update the CPIN following this review and incorporate suggested material.

<p>November 2018. It is more common for Rohingya people to have to self-identify as Bengali on their card. I note that this is further confirmed in the 2018 Annual Report of the United States Commission on International Religious Freedom (USCIRF) which states that <i>‘Muslims are not allowed to indicate on their ID cards that they are from Burma, but rather must list a foreign country of origin, such as India or Pakistan, which often makes it difficult to obtain a bank loan, rent an apartment, or get a civil service job.’</i>¹²</p>	
<p>The paragraph goes on to state that <i>‘Burmese Muslims hold national ID cards and residency documents, which gives them a legal right to a passport.’</i> It cannot be said that all Burmese Muslims have a right to a passport. It may be true for certain categories of Burmese Muslims who qualify for citizenship, such as members of a qualifying <i>‘national race’</i> or those who meet the residency requirements under the 1982 Act. Even for those Muslims who qualify for citizenship under the 1982 Act, the above-mentioned research has shown that many Muslims face a high degree of discrimination in obtaining citizenship documentation, which often entails delays of several years before they receive any decision on their application, and requests for bribes. Again, this statement is inaccurate and contradictory to sources elsewhere in the CPIN, for instance at paragraph 5.2.1 and in the policy guidance at 1.2.2.</p> <p>In summary, this paragraph should be amended to ensure factual accuracy. Paragraph 2.2.2 of the Policy Guidance will also need to be amended in line with this.</p>	

2.9 Rohingyas in Bangladesh

To the best of my knowledge, section 12 is a balanced and accurate summary of the situation of Rohingyas in Bangladesh as at the cut-off date of the report. Given the increased numbers of Rohingya residing in Cox’s Bazar since August 2017, and efforts between Burma and Bangladesh to agree a repatriation plan, this section will need to be updated for any future report.

<p><u>12.1</u> The DFAT report of 2016 is cited as stating that 500,000 Rohingyas from Burma live in Cox’s Bazar. The numbers will have increased significantly even before the cut-off date of the report, as approximately 700,000 further Rohingya refugees were reported to have fled to Bangladesh following the events of August 2017.</p>	<p>Accepted. We will update the CPIN following this review.</p>
<p><u>12.1.4</u> <i>‘Over 400,000 Rohingya crossed the border into Bangladesh following clearance operations in Rakhine in August 2017.’</i> As above, this number increased to around 700,000 in the months following the attacks (and</p>	<p>Accepted. We will update the CPIN following this review.</p>

¹² United States Commission on International Religious Freedom, Annual Report 2018, available at: https://www.uscifr.gov/sites/default/files/Tier1_BURMA.pdf

beyond the cut-off date of the CPIN).	
<u>12.3.1</u> The web-link provided at footnote 168 is for the US Department of State 2015 report, but should be for the 2016 report.	Accepted. We will address this point when we update the CPIN.
<u>12.4.5</u> The web-link provided at footnote 181 was not accessible at the time of the review.	Accepted. We will address this point when we update the CPIN. The page is archived at https://web.archive.org/web/20170302051937/http://archive.dhakatribune.com/bangladesh/2016/jun/20/final-rohingya-census-report-nov

2.10 Rohingyas in Malaysia and Thailand

Section 13 does not contain detailed information, but instead refers to two reports providing information on the situation of Rohingya in Burma and Thailand. The two reports appear to be reliable.

2.11 Fraudulent Documents

To the best of my knowledge, section 14 provides a balanced and accurate summary relating to fraudulent documents at the cut-off date of the report.

This section appears to relate to Rohingya in Bangladesh only, and might therefore be more appropriately located immediately after, or as a subsection to, section 12.

Accepted. Thank you for the suggestion. We will reconsider the structure of the report in the next update.

3 Information about the Reviewer

Laura Draper is a Burma-based legal consultant with expertise in human rights, immigration and asylum law.

She currently works as an International Legal Adviser for Justice Base, focussing on citizenship, fair trial rights and freedom of expression in Burma. In particular, she has delivered a series of workshops to lawyers and community members on accessing citizenship documentation, and has developed research and guidebooks on the same topic.

Ms Draper is also the Burma Country Adviser for the International Senior Lawyers Project (ISLP), through which she supports civil society organizations engaged on land rights issues.

Ms Draper previously practised asylum, immigration, and public law at Wilson Solicitors LLP. She holds an LLM in International Law and Human Rights from the University of Groningen and an MA (Cantab) in Oriental Studies from the University of Cambridge.

Annex D

Annex D: Review of the March 2017 Home Office Country of Origin Information on Burma: Critics of the Government

Prepared for the Independent Advisory Group on Country Information (IAGCI)

Reviewer: Laura Draper, Independent Consultant
November 2018

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1 Introduction

1.1 Instructions

This review provides a commentary on the March 2017 Home Office Country of Origin Information on Burma: Critics of the Government produced by the Home Office. The review is commissioned by the Independent Advisory Group on Country Information, and is therefore drafted in line with instructions received through the IAGCI Chair, Dr Laura Hammond.

Specifically, I have been instructed to:

- assess the extent to which information from source documents has been appropriately and accurately reflected in the Country Policy and Information Notes (CPIN);
- identify additional sources detailing the current human rights situation in Burma with respect to main grounds for asylum claims;
- note and correct any specific errors or omissions of fact; and
- make recommendations for general improvements regarding, for example, the structure of the report, its coverage or its overall approach.

In undertaking this Review, I have been conscious that the Home Office's CPIN are focussed on particular themes and are not intended as general country of origin information reports.

I have been instructed to keep my comments to the cut-off date of 14 March 2017. With this in mind, I have made recommendations for additional sources that could be consulted in updating guidance.

This review does not attempt to comment on the Home Office policy, which falls outside the scope of the instructions.

1.2 Methodology

This review has been conducted by checking the content of the report for factual accuracy, checking the citations in the report as well as the original documents from which they are drawn, and ensuring that they have been quoted accurately. The sources have been checked for balance and some alternative, open access sources have been recommended where I consider that the report could benefit from more balance or detail.

Given the rapidly changing nature of the country situation in Burma, I have also suggested recommendations for updating the content of the report with more recent open-access sources that reflect the situation to date.

1.3 Summary of Review

Overall, this is a very good report. It constitutes a balanced, accurate understanding of the key issues and is drawn from a range of reliable sources. I have very few comments regarding the content of the report, except for some additional examples of legal provisions used to restrict freedom of expression, as well as suggestions for updates after the cut-off date for the report.

1.4 Understanding of the themes addressed in the CIG Reports

This report accurately reflects the key legal issues and academic understandings of the themes considered.

1.5 Quality and balance of sources

The sources are generally of high quality, balanced and relevant to the time period in the CPIN, specifically from the NLD government's election until the cut-off date. I have suggested some additional sources to provide a wider range of up-to-date content in future CPIN on this topic.

There are numerous errors in the footnotes, especially relating to page numbers or paragraphs cited, which I have attempted to correct below.

2 Review

2.1 Political History

Section 4 is brief but helpfully directs the reader to more detailed, reliable sources for Burma’s political history before 2015. It provides a helpful, albeit brief description of the 2015 elections. I have no comments on this section.

2.2 Political Reform

Section 5 provides a balanced and accurate description of the NLD’s transition to power including, importantly, noting concerns regarding ongoing restrictions on civil and political rights.

<p><u>5.2</u> As a general comment, it may be worth noting that the review was completed at a time of relative optimism regarding the potential for reform under the NLD. Since the cut-off date of the report, the Burmese government has continued to clamp down on freedom of expression and assembly, including by bringing criminal charges against journalists and activists using old repressive legislation from the colonial era or enacted by the military regime. The UN Fact-finding mission report of September 2018 noted that <i>‘while Myanmar has made significant strides, challenges and negative trends have emerged too, especially since 2015’</i> and that <i>‘Observers reported increased restrictions on the rights to freedom of expression, association and peaceful assembly; continuing arrest and detention of individuals in relation to the exercise of these rights; and an increasing intimidation, monitoring and surveillance of human rights defenders.’</i>¹ The same should be noted for paragraphs 2.2.1 and 3.1.2 of the Policy Guidance in the CPIN, which both refer to <i>‘a growing tolerance of diversity of political opinion’</i>.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>5.1.1</u> Footnote 8 incorrectly cites paragraph 7 of the UN Special Rapporteur’s report. The correct citation is paragraph 18.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>5.1.3</u> Footnote 10 incorrectly cites paragraph 7 of the UN General Assembly report. The correct citation is paragraph 40.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>5.2.1</u> Footnote 14 does not cite a paragraph number of the Special Rapporteur’s report. The correct citation is</p>	<p>Accepted. We will address this point when we update the CPIN.</p>

¹ UN Human Rights Council, ‘Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar’, A/HRC/39/CRP.2, 17 September 2018, para. 1288, available at: <https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx>

paragraph 7.	
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2.3 Political Affiliation

Section 6 provides an accurate and balanced outline of the state of freedom of political expression, monitoring and surveillance and political prisoners in Burma as at the cut-off date of the report. I have only very minor comments relating to referencing in this section.

It may be worth noting that the UN Human Rights Council has met on several occasions since March 2017, including having established a UN Fact-finding mission whose report was released in September 2018.	Accepted. We will update the CPIN following this review and incorporate suggested material.
<u>6.1.1</u> This paragraph refers to the Political Parties Registration Law 2010 which ‘allows only full citizens to form political parties, and full or naturalized citizens to be party members.’ The reviewer suggests that further clarification be provided here of the different categories of citizen, or otherwise reference to the 1982 Citizenship Act or another source which summarises the criteria for each form of citizenship. Further, the reviewer suggests that reference should be made to the Political Parties Registration Law 2010 directly in the footnote.	Accepted. We will update the CPIN following this review and incorporate suggested material.
The web-link provided at footnote 20 does not connect. However, this link is still live: https://www.mmtimes.com/national-news/16265-election-parties.html	Accepted. We will address this point when we update the CPIN.
The paragraph states ‘ethnic Rohingya who lack full citizenship documents after effectively being made stateless by a 1982 law.’ The reviewer suggests that a link be provided to the CPIN on Rohingya, which sets this out in more detail.	Accepted. We will address this point when we update the CPIN.
<u>6.1.4</u> This refers to proposed amendments to the Peaceful Assembly and Peaceful Procession Law 2011 which would appear to ease restrictions on freedom of assembly. In fact, amendments proposed in early 2018 threatened to tighten restrictions on peaceful assembly including a new criminal offence of funding a protest incurring a sentence of three years. ² The amendments were rejected in the Upper House in March 2018. ³	Accepted. We will update the CPIN following this review and incorporate suggested material.

² Frontier Myanmar, ‘Surprise protest law amendment a return to dark past’, 26 February 2018, available at: <https://frontiermyanmar.net/en/surprise-protest-law-amendment-a-return-to-dark-past>

³ Myanmar Times, ‘Upper House lawmakers object to changes in peaceful assembly law’, 6 March 2018, available at: <https://www.mmtimes.com/news/upper-house-lawmakers-object-changes-peaceful-assembly-law.html>

<p><u>6.1.4</u> and <u>6.1.5</u> The Australian Department of Foreign Affairs and Trade (DFAT) Country Information Report for Burma is relied upon. As noted in the review of the CPIN on Rohingya, the DFAT report lacks specific citations or primary sources for any material. I would recommend that where possible, an additional corroborating source should be provided to supplement or replace references to the DFAT report.</p>	<p>Partially accepted. DFAT reports are based upon on-the-ground knowledge and discussions with a range of sources in Burma, alongside other relevant and credible open source reports. We will aim to include additional corroborating information. Any specific sources the reviewer can provide would be appreciated.</p>
<p><u>6.3.2</u> There is a missing apostrophe in ‘Special Rapporteurs report’.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>6.3.5</u> There is a missing ‘s’ at the end of ‘Ministry of Home Affairs’.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>

2.4 Freedom of Association and Assembly

Section 7 provides a balanced and accurate overview of the restrictions placed upon freedom of association and assembly, drawing from reliable sources, including by referring to the relevant laws used to criminalise peaceful assembly as set out by Human Rights Watch. I have only minor comments, and have suggested some additional, updating sources for future CPIN on this theme.

<p>It may be worth noting that the UN Human Rights Council has met on several occasions since March 2017, including having established a UN Fact-finding mission whose report was released in September 2018.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>7.1.4</u> The second paragraph cited in this section might be better placed in section 7.3 on Demonstrations.</p>	<p>Accepted. We will address this point when we update the CPIN and include a cross-reference to Legal rights.</p>
<p><u>7.2.1</u> The Special Rapporteur is quoted as having welcomed the National Land Use Policy. While it is true that this was seen as a positive step at the time, there has been little evidence that the government is committed to carrying forward the policy into law. There are ongoing discussions of a consolidated National Land Law, which would bring together all laws relating to land management under an umbrella</p>	<p>Accepted. We will update the CPIN following this review. Any specific sources, relating to this issue, that the reviewer can provide would be appreciated.</p>

<p>law. However, amendments to other laws, including most recently to the Vacant, Fallow and Virgin Land Law (2012, amended in September 2018) display a disregard for the principles set out in the National Land Use Policy.</p>	
<p><u>7.2.4</u> Another example of action taken against farmers and land rights activists is the conviction of 33 farmers for trespass on their land which was seized for the Thilawa Special Economic Zone. Although the conviction was secured after the cut-off date of the report, the farmers were first charged in July 2014.⁴</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p>Additional/ updating sources: Athan, Mid-Term Report on Freedom of Expression in Myanmar, 28 October 2018, available at: https://equalitymyanmar.org/mid-term-report-on-freedom-of-expression/</p> <p>Reuters, ‘Myanmar police to charge 17 anti-war protesters over demonstration’, 14 May 2018, available at: https://www.reuters.com/article/us-myanmar-kachin-protests/myanmar-police-to-charge-17-anti-war-protesters-over-demonstration-idUSKCN1IF1NV</p> <p>Radio Free Asia, ‘Eight Students Arrested in Myanmar For Unauthorized Protest’, 31 May 2018, available at: https://www.rfa.org/english/news/myanmar/eight-05312018152530.html</p>	<p>Thank you for the additional sources, which we will review and consider for the next update.</p>

2.5 Freedom of Speech and Media

Section 8 provides a balanced and accurate overview of the restrictions placed upon freedom of expression and the media, drawing from reliable sources. I have only minor comments on this section. Primarily, I have suggested some additional laws used to curtail freedom of expression and the media as well as some updating sources for future CPIN on this theme.

<p>It may be worth noting that the UN Human Rights Council has met on several occasions since March 2017, including having established a UN Fact-finding mission whose report was released in September 2018.</p>	<p>Accepted. We will update the CPIN following this review and incorporate suggested material.</p>
<p><u>8.1.1</u> Reference should be made to the original Printing and Publishing Enterprise Law 2014 itself.</p>	<p>Accepted. We will reference the original law when we update the CPIN.</p>

⁴ Frontier Myanmar, ‘Yangon court finds 33 farmers guilty of trespassing in land grab case’, 8 May 2018, available at: <https://frontiermyanmar.net/en/yangon-court-finds-33-farmers-guilty-of-trespassing-in-land-grab-case>; and Earth Rights International, ‘Thilawa: The 33 Farmers’, available at: <https://earthrights.org/case/thilawa-33-farmers/>

<p><u>8.1.5</u> This section could refer to the following laws which are also used to restrict free expression in Burma:</p> <ul style="list-style-type: none"> i. ‘High treason’ under Section 124 of the Penal Code 1861; ii. ‘Defamation’ under Sections 499-502 of the Penal Code 1861; iii. Any statement ‘with intent to cause, or which is likely to cause, “fear or alarm to the public”’ under Section 505(b) of the Penal Code 1861; iv. ‘Insult, intimidation or annoyance’ under Sections 503-510 of the Penal Code 1861; v. The Official Secrets Act 1923; vi. ‘High treason’ and ‘defaming the state’ under Section 17 of the Unlawful Associations Act 1908; vii. The Electronic Transaction Law 2004; viii. The Import-Export Law 2012; ix. The Aircraft Act 1934; and x. The Law Protecting the Privacy and Security of Citizens 2017. <p>For examples of how these have been used to restrict the media, see: Athan, <i>Mid-Term Report on Freedom of Expression in Myanmar</i>, 28 October 2018, available at: https://equalitymyanmar.org/mid-term-report-on-freedom-of-expression/; and Office of the United Nations High Commissioner for Human Rights (OHCHR), ‘The Invisible Boundary – Criminal prosecutions of journalism in Myanmar’, 11 September 2018, available at: https://www.ohchr.org/en/countries/asiaregion/pages/mmindex.aspx.</p>	<p>Accepted. We will update the CPIN following this review and list the suggested material.</p>
<p>Footnote 65 incorrectly refers to paragraph 19 of the UN Special Rapporteur’s report. The correct citation is page 22 of the report.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>8.3.5</u> Footnote 74 incorrectly cites page 61 of the Human Rights Watch report. The correct citation is page 6.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>8.3</u></p>	<p>Partially accepted. Given the purpose</p>

<p>This section could list more of the many examples of journalists being charged with crimes associated with their reporting activities.</p> <p>For instance, although since the cut-off date of the report, the high profile case of the Reuters journalists Wa Lone and Kyaw Soe Oo sentenced to 7 years under the Official Secrets Act in 2018, could be included in any future report.⁵ There are further cases set out in sources in the ‘Additional/ updating sources’ section below.</p>	<p>and scope of the CPIN, in which we recognise the issues faced by journalists, we do not believe it necessary to provide a more exhaustive list of examples. However, we are grateful for the additional sources, which we will consider for incorporation following this review.</p>
<p><u>8.4.2</u> Footnote 79 should refer to paragraph 23 as well as paragraph 25 of the UN Special Rapporteur’s report.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>8.4.4</u> Footnote 82 should refer to page 5 of the Human Rights Watch report.</p>	<p>Accepted. We will address this point when we update the CPIN.</p>
<p><u>Additional/ updating sources:</u> Justice Base, <i>Monitoring in Myanmar: An Analysis of Myanmar’s Compliance with Fair Trial Rights</i>, October 2017, available at: http://justicebase.org/?page_id=44</p> <p>Free Expression Myanmar, <i>66(d): No real change</i>, December 2017, available at: http://freexpressionmyanmar.org/wp-content/uploads/2017/12/66d-no-real-change.pdf</p> <p>Free Expression Myanmar, <i>Myanmar’s Media Freedom at Risk</i>, May 2018, available at: http://freexpressionmyanmar.org/wp-content/uploads/2018/05/myanmars-media-freedom-at-risk.pdf</p> <p>Office of the United Nations High Commissioner for Human Rights (OHCHR), ‘The Invisible Boundary – Criminal prosecutions of journalism in Myanmar’, 11 September 2018, available at: https://www.ohchr.org/en/countries/asiaregion/pages/mmindex.aspx</p> <p>Athan, <i>Mid-Term Report on Freedom of Expression in Myanmar</i>, 28 October 2018, available at:</p>	<p>Thank you for the additional sources, which we will review and consider for the next update.</p>

⁵ Reuters, ‘Special Report: How Myanmar punished two reporters for uncovering an atrocity’, John Chalmers, 3 September 2018, available at: <https://www.reuters.com/article/us-myanmar-journalists-trial-specialrepo/special-report-how-myanmar-punished-two-reporters-for-uncovering-an-atrocity-idUSKCN1LJ167>

<https://equalitymyanmar.org/mid-term-report-on-freedom-of-expression/>

UN Human Rights Council, 'Report of the Special Rapporteur on the situation of human rights in Myanmar', A/HRC/37/70, 9 March 2018, available at:

<https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session37/Pages/ListReports.aspx>

Committee to Protect Journalists, 'Editor and columnist detained on criminal defamation charges in Myanmar', 5 June 2017, available at: <https://cpj.org/2017/06/editor-and-columnist-detained-on-criminal-defamati.php>

Committee to Protect Journalists, 'Three journalists charged with defamation in Myanmar', 19 June 2017, available at: <https://cpj.org/2017/06/three-journalists-charged-with-defamation-in-myanm.php>

Committee to Protect Journalists, 'Myanmar detains three journalists who reported on outlawed group', 27 June 2017, available at: <https://cpj.org/2017/06/myanmar-detains-three-journalists-who-reported-on-.php>

Committee to Protect Journalists, 'Myanmar journalist arrested at airport ahead of criminal defamation trial', 31 July 2017, available at: <https://cpj.org/2017/07/myanmar-journalist-arrested-at-airport-ahead-of-cr.php>

Committee to Protect Journalists, 'Threats, arrests, and access denied as Myanmar backtracks on press freedom', 12 February 2018, available at: <https://cpj.org/blog/2018/02/threats-arrests-and-access-denied-as-myanmar-backt.php>

Al Jazeera, 'Myanmar arrests three journalists over article on Suu Kyi protégé', 10 October 2018, available at: <https://www.aljazeera.com/news/2018/10/myanmar-arrests-journalists-article-suu-kyi-protege-181010141035620.html>

2.6 Freedom of Movement

Section 9 provides a balanced and accurate overview of the restrictions placed on freedom of movement, drawing from reliable sources. This section could refer to the CPIN on Rohingya for free movement of Rohingya. I have no further comments on this section.

2.7 Entering and Exiting Burma

To the best of my knowledge, section 10 provides an accurate overview of the requirements for entering and exiting Burma. There is limited open source English-language information available on these matters, but the report provided by DFDL law firm provides useful information.

10.5.4

This section cites the DFDL correspondence stating: *‘In summary, a person who is politically active in the UK and possesses a Myanmar passport, or a foreign passport with a duly issued visa, faces no risk in terms of violating the immigration law upon the person’s return to Myanmar.’* It is worth noting that DFDL did not answer the question of whether *‘a person who is politically active in the UK’* would *‘be at risk upon their return to Burma’* (in Annex A). As DFDL only comments on immigration law, there is no information provided in the CPIN to address whether a person on the ‘blacklist’ would be likely to be detained or persecuted following their return to Burma.

Accepted. We will update the CPIN following this review. Any specific sources, relating to this issue, that the reviewer can provide would be appreciated.

3 Information about the Reviewer

Laura Draper is a Burma-based legal consultant with expertise in human rights and immigration/ asylum law.

She currently works as an International Legal Adviser for Justice Base, focussing on citizenship, fair trial rights and freedom of expression in Burma. Ms Draper is also the Burma Country Adviser for the International Senior Lawyers Project (ISLP), through which she supports civil society organizations engaged on land rights issues.

Ms Draper previously practised asylum, immigration, and public law with Wilson Solicitors LLP in the UK. She holds an LLM in International Law and Human Rights from the University of Groningen and an MA (Cantab) in Oriental Studies from the University of Cambridge.

Annex E

Annex E: Review of Home Office Responses to Country of Origin Information Requests on Burma

Prepared for the Independent Advisory Group on Country Information (IAGCI)

Reviewer: Laura Draper, Independent Consultant
November 2018

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1 Introduction

1.1 Instructions

This review provides a commentary on eight responses to individual Country of Origin Information (COI) requests prepared by the Home Office's Country Policy and Information Team (CPIT) on Burma between 2015 and 2018. The review is commissioned by the Independent Advisory Group on Country Information, and is therefore drafted in line with instructions received through the IAGCI Chair, Dr Laura Hammond.

I have been instructed to assess whether, in my opinion, each response provided by the Home Office is factually accurate, complete, and well supported with empirical evidence.

Specifically, I have been instructed to:

- assess the extent to which information from source documents has been appropriately and accurately reflected;
- identify additional sources detailing the current human rights situation in Burma with respect to main grounds for asylum claims;
- note and correct any specific errors or omissions of fact; and
- make recommendations for general improvements regarding, for example, the structure of the report, its coverage or its overall approach.

This review does not attempt to comment on the Home Office policy guidance, which falls outside the scope of the instructions.

1.2 Methodology

This review has been conducted by checking the content of the eight responses to Country of Origin (COI) requests for factual accuracy and completeness, checking the citations as well as the original documents from which they are drawn, and ensuring that they have been quoted accurately. The sources have been checked for balance and some alternative, open access sources have been recommended where the reviewer considers that the report could benefit from more balance or detail. Suggestions are made as to how to improve the structure of the responses in the interests of clarity.

The responses are reviewed in date order, under separate sub-headings comprising the key identifying information for the Responses.

1.3 Summary of Review

These eight responses to COI requests offer generally accurate and up-to-date information on their respective topics, to the extent that such information exists in publicly available sources, although in some cases there was a need for updating and/or amendment.

<u>Main Suggestions relating to the COI Requests</u>	
<ol style="list-style-type: none">1. The responses should ensure that they attempt to answer all questions posed in the requests, even if simply to say that no information is available.2. It is not always clear what questions are being addressed at each stage of the responses. It would assist caseworkers if sub-headings were provided for each question posed in a review.3. Where information is not identified, and only background information is provided, some reviews expressly state that no information was found relating to the specific question. This is good practice.4. Some of the responses cross-refer to the Home Office's CPIN on Burma, which is good practice.	<p>1: Accepted. We do strive to answer all questions, and it is expected that a "no information could be found" response is included if that is appropriate.</p> <p>2: Accepted. We are now using an improved template that incorporates sub-headings.</p> <p>3&4: Thank you</p>

2 Review of responses to COI requests

2.1 COI request – Update on political and security situation 03/-15-120

This request was prepared to provide an update on the political and security situation in Burma following protests and arrests in Letpadan in March 2015.

The response provides a good overview of the protests and the police/ state response, including arrests and accountability, with reference to several different, reliable reports. It is divided into helpful sections for ease of reference. I have no suggestions for this response.

We thank the reviewer for the positive comments.

2.2 COI request – Rohingya – historical 03/15-157

The request asks whether there was a refugee camp named Kepalond camp operating in Bangladesh between 1992 and 1995. It also asks for evidence of the "Nassaka Guard" attacking villages in 1995.

The response is concise, but provides useful information to assist the caseworker with the enquiry, drawing from reliable sources.

Although the historical nature of the enquiry renders it difficult to provide detailed information, there are additional sources available which refer to Kutupalong camp existing in the 1990s, and also to accounts of Rohingya fleeing attacks on villages by the NaSaKa in early 1996. See e.g. United States Bureau of Citizenship and Immigration Services, *Bangladesh: Information on the situation of Rohingya refugees*, 28 March 2001, BGD01001.ZCH, available at:

<https://www.refworld.org/docid/3decceb113.html>

The reviewer recommends that, where possible, the CPIT provide sources that refer as closely as possible to the dates and events raised in the information request.

Due to the passage of time and specific nature of this response we plan to remove it from our intranet. However, we thank the reviewer for the additional source and recommendation.

2.3 COI request – Treatment of gay men 04/15-101

The request seeks information as to whether gay men can live openly anywhere in Burma.

The quality of this response is high, providing detailed and accurate information in response to the request,

We thank the reviewer for the positive

<p>from a range of reliable sources. I have no comments on this response, except to state that the situation as described in the information request is much the same as the present day. Although small moves have been made towards greater openness, particularly in Yangon, section 377 of the Penal Code remains in force and societal discrimination and police harassment persevere. See e.g. Myanmar Times, ‘Prejudice and progress: a snapshot of LGBT rights in Myanmar’, 1 June 2017, available at: https://www.mmtimes.com/lifestyle/26228-prejudice-and-progress-a-snapshot-of-lgbt-rights-in-myanmar.html</p>	<p>comments. We will update the response, incorporating the additional source suggested and point the reader to the IAGCI review.</p>
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2.4 COI request – Opposition activity while in the UK 05/15-072/073

The request asks for any available information about the arrest of the monk, Abbot Ven Uttara in Burma in June 2014 and his imprisonment in Insein Jail.

It requests information about whether Burmese nationals who have protested about this in the UK have experienced problems on return to Burma.

The request further asks for information about the arrest of opposition politician, Mr San Myint Aye on 20 November 2014.

The requests asks if there is any objective information about the arrest and detention of people who help publish anti-government literature.

Finally, the request asks for any facility to help verify documents issued in Burma, specifically an arrest warrant.

<p>The response deals well with responding to all questions posed, and appropriately explains when information is not found/ available. To my knowledge, the sources provided are reliable and balanced.</p>	<p>Due to the passage of time we plan to remove this response from our intranet. However, we thank the reviewer for their comments and suggestions. Up-to-date information on dissent will be included in the CPIN on Burma: Critics of the government following this review.</p>
<p>The response would benefit from being divided into sections with sub-headings to address each question in turn.</p>	
<p>Footnote 7 contains a typographical error. It should say ‘evicted’ and not ‘evicred’.</p>	
<p>The response lists a number of examples of people being arrested and detained for publishing anti-government literature. I suggest that the response should also cross-refer to the Home Office CPIN on Burma: Critics of the Government.</p>	
<p>The response correctly identifies that verifying the arrest warrant would entail breaching confidentiality if it required contacting the Burmese authorities.</p>	

2.5 COI request – NLD activists; outstanding arrest warrants 12/15-022

The request asks whether the military authorities in Burma are executing outstanding arrest warrants for National League for Democracy activists. It also asks whether the military authorities in Burma are arresting persons who have participated in demonstrations in the UK.

<p>This response provides balanced and reliable sources where available to respond to the request, and appropriately explains when information is not found/ available.</p>	<p>Due to the passage of time we plan to remove this response from our intranet. However, we thank the reviewer for their comments and suggestions. Up-to-date information, where relevant, will be included in the CPIN on Burma: Critics of the government following this review.</p>
<p>This response would benefit from being divided into sections with sub-headings to address each question in turn.</p>	
<p>I am not aware of any additional source material that could have been cited on the question of outstanding arrest warrants for NLD activists. However, I note that this question is unlikely to arise in further asylum claims in the near-term, as the NLD is now in power.</p>	

2.6 COI request – Buddhist Women's Special Marriage Law 12/15-026

The request asks for information about the status of the Buddhist Women's Special Marriage Law/Bill. It asks whether the law discriminates against Buddhist women so as to put them at risk on return to Burma if they were to marry a non-Buddhist. It also asks whether non-Burmese, non-Buddhists are at risk in Burma.

<p>The response confirms the status of the Special Marriage law and refers to useful analysis of the law, including relating to its discriminatory nature. However, it does not provide information about repercussions (if any) for a Buddhist woman who marries a non-Buddhist man without seeking registration/ approval. Although by its nature this law is discriminatory (both on grounds of religion and gender), it may be worth noting that the restrictions, obligations and penalties defined under the law apply to the non-Buddhist man of the marriage and not to the Buddhist wife.</p>	<p>Due to the passage of time we plan to remove this response from our intranet. We will provide an updated response if required by our decision makers. However, we thank the reviewer for their comments and suggestions.</p>
<p>The response does not address the final question as to whether non-Burmese, non-Buddhists are at risk in Burma. Whilst I note that the question itself is too broad for a comprehensive response, it might have been worth advising the caseworker to submit a further request with more details of the profile of the individual to whom they refer (i.e. ethnicity, religion and descent).</p>	

2.7 COI request – Shan ethnicity; Political affiliation 01/16-028

The request asks for information as to whether members of the Shan ethnic group are specifically targeted in the conflict in the Shan Northern State on the basis of their ethnicity alone.

<p>The response is detailed and draws from a range of sources. However, although it provides many details of the Shan State Army and violence within Shan state, the response is confusing and incomplete in that it fails to answer the question posed.</p> <p>Although published since the information request, the UN Fact-finding mission report published in September 2018 indicates that members of the Shan ethnicity may be targeted by the Tatmadaw in Shan state <i>‘intentionally, frequently and systematically’</i> because they consider <i>‘all civilians of an ethnic group as members of the EAO of that particular group or in retaliation for attacks by the EAO against the Tatmadaw.’</i>¹ The same report noted multiple accounts indicating <i>‘that the Tatmadaw does not specifically or necessarily target locations where non-State armed groups are based or active, but rather launches attacks on villages because residents are of the same ethnic background as the fighters, or because the villages are in the nearest location to a recent operation from the armed group.’</i>² In addition to documenting military offensives against civilians in Shan state, the report documents incidents of torture, rape, sexual slavery, arbitrary deprivation of liberty, deaths in detention, forced labour, enforced disappearances and forced displacement against civilians. See UN Human Rights Council, ‘Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar’, A/HRC/39/CRP.2, 17 September 2018, available at: https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx, pp. 30- 95.</p>	<p>We thank the reviewer for their comments and suggested sources. We will update the response and point the reader to the IAGCI review.</p>
<p>Paragraph 5 incorrectly states that there are 135 ethnic groups in Burma. The government currently officially recognizes 135 ethnic groups as ‘national races’ of Burma. However, there are a number of other groups in Burma who are not recognized as ‘national races’.</p>	
<p>Paragraph 8 states that the Shan State Army - South (SSA-S) signed the Nationwide Ceasefire Agreement of 2015. In spite of the NCA, there are still frequent clashes between the SSA-S and the Tatmadaw.³</p>	

¹ UN Human Rights Council, ‘Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar’, A/HRC/39/CRP.2, 17 September 2018, paragraph 109, available at: <https://www.ohchr.org/en/hrbodies/hrc/myanmarffm/pages/index.aspx>

² Ibid., paragraph 123.

³ Ibid., paragraph 107.

2.8 COI request – Whether conversion from Buddhism to Christianity is illegal. Treatment of converts to Christianity 03/18-45

The request seeks information about whether conversion from Buddhism to Christianity is illegal in Burma. It further seeks clarification as to whether Christian converts are persecuted in Burma.

<p>The response directs the caseworker to some useful information regarding the treatment of Christians in Burma, which appears factually accurate and well supported with evidence. However, the response is incomplete in that it does not expressly respond to the question of whether it is illegal to convert to Christianity.</p>	<p>We thank the reviewer for their comments and suggested sources. We will update the response and point the reader to the IAGCI review.</p>
<p>At paragraph 4, the review cites the United States Commission on International Religious Freedom (USCIRF) report referring to the Religious Conversion Law 2015. However, it does not directly cite the law or explain what it requires, including whether it criminalizes conversion to Christianity under any circumstances.</p>	
<p>The web-link provided at footnote 5 does not link to the relevant information at the time of the review.</p>	
<p>Although published since the date of the information request, a 2018 report by the Chin Human Rights Organization has documented numerous accounts of discrimination and violence perpetrated towards Christians, including converts, in Chin State. See Chin Human Rights Organization, <i>Stable and Secure: An Assessment on the Current Context of Human Rights for Chin People in Burma/Myanmar</i>, 9 October 2018, pp. 22-31 available at: http://www.chro.ca/index.php/resources/chro-in-the-news/565-stable-and-secure. In addition, the most recent USCIRF Annual report of 2018 states that ‘converts to Christianity experience harassment.’</p>	

3 Information about the Reviewer

Laura Draper is a Burma-based legal consultant with expertise in human rights and immigration/ asylum law.

She currently works as an International Legal Adviser for Justice Base, focussing on citizenship, fair trial rights and freedom of expression in Burma. Ms Draper is also the Burma Country Adviser for the International Senior Lawyers Project (ISLP), through which she supports civil society organizations engaged on land rights issues.

Ms Draper previously practised asylum, immigration, and public law with Wilson Solicitors LLP in the UK. She holds an LLM in International Law and Human Rights from the University of Groningen and an MA (Cantab) in Oriental Studies from the University of Cambridge.

Annex F

Annex F: Review of the January 2018 Home Office Country Policy and Information Note on Iraq: Perceived collaborators and COI responses.

Prepared for the Independent Advisory Group on Country Information (IAGCI)

Dr Alan George, Senior Visiting Research Fellow, King's College. Review undertaken in personal capacity.
November 2018

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1 Introduction

1. This review assesses the Home Office Country Policy and Information Note (CPIN) entitled *Iraq: Perceived collaborators*, on the basis of instructions from the Independent Advisory Group on Country Information (IAGCI).

1.1 Instructions

2. The invitation to tender for the contract to review this CPIN stipulates:

Country Policy and Information Notes aim to provide an accurate, balanced and up to date summary of the key available source documents regarding the human rights situation, with respect to the issues selected for coverage, in the country covered. The purpose and scope of the reports are clearly set out in an introductory section of the document. Reviewers should evaluate the reports in this context and seek to identify any areas where they can be improved. Specifically the review should entail:

- *assessing the extent to which information from source documents has been appropriately and accurately reflected in the CPIN Reports*
- *identifying additional sources detailing the current human rights situation in the country with respect to main grounds for asylum claims (which are noted in each CPIN Report)*
- *noting and correcting any specific errors or omissions of fact*
- *making recommendations for general improvements regarding, for example, the structure of the report, its coverage or its overall approach*

Reviewers should follow these specific guidelines:

- *the review should focus exclusively on the country of origin information contained within the document, and not pass judgment on the policy guidance provided*
- *the CPIN should be reviewed in the context of its purpose as set out above. It should consider the situation in the country up to the stated 'cut off' date for inclusion of information*
- *when suggesting amendments, rather than 'tracking changes' on the original CPIN, a list of suggested changes should be provided as part of a stand-alone review paper, and each report should be reviewed separately. A reporting template will be provided to reviewers (for reference please refer to most recent reviews on the IAGCI webpage for examples of the template)*

- *any suggestions for additional information (or corrections to information in the document) must be referenced to a source document for the Home Office to be able to use it (preferably Open Source). The Home Office may use foreign language source documents, but only if the information is considered essential and is not available in English language source*

3. In undertaking this Review, I have been conscious that my role is to assess country of origin information, and that it is not my function to comment on Home Office policies.

1.2 Methodology

4. Essentially, I perused the CPIN line by line, seeking any errors and/or omissions, and considering whether the information presented, and the sources, were the most recent available.

1.3 Summary of Review

5. Since the 2003 invasion, Iraq has undergone multiple upheavals that have threatened its continued existence as a unified state. The country continues to be wracked by sectarian and ethnic tensions and - albeit to a lesser extent than previously - armed conflict. Against that background, *Iraq: perceived collaborators* is an impressive publication, offering accurate and well-chosen information from reputable sources.

6. The only significant corrections that I identified were the possible addition of two news paragraphs, neither of which would substantively change the overall portrayal by the CPIN of the risks to perceived collaborators in Iraq.

7. In addition, I identified a very small number of stylistic and typographical flaws.

1.4 Understanding of the themes addressed in the CIG Reports

8. Generally, this CPIN usefully reflects prevalent legal usage and academic understandings of the theme under consideration.

1.5 Quality and balance of sources

9. The sources used are reputable and relevant to the time period covered by this CPIN.

2 Review

2.1 Policy guidance section

<p>Paragraph 2.2.2: ‘For information on the security situation in Iraq, including about Daesh’s current control of territory (which has diminished since the height of their power and control in mid-2014), see the country information and guidance document on the security and humanitarian situation’.</p>	
<p>This should be amended thus: ‘For information on the security situation in Iraq, including about Daesh’s current activities (which have diminished dramatically since the height of their power and territorial control in mid-2014), see the country information and guidance document on the security and humanitarian situation’.</p>	<p>Accepted: When we update this policy guidance section following this review we will ensure that it accurately reflects the current COI.</p>

<p>2.4.2 For further information and guidance on internal relocation, see the country information and guidance note on Return/Internal relocation.</p>	
<p>It appears to me that this reference should be amended to: ‘the country policy and information note on internal relocation, civil documentation and returns’.</p>	<p>Accepted: We will address this point when we update this CPIN following this review.</p>

2.2 Perceived collaborators section

<p>The following could be added as a paragraph 5.2.10:</p> <p>Iraq specialists attending a European Asylum Support Office (EASO) meeting on Iraq in April 2017¹ were asked: ‘Are interpreters/drivers etc that works [<i>sic</i>] for the coalition still at risk of being persecuted?’ Mark Lattimer, Director of the London-based Ceasefire Centre for Civilian Rights, responded:</p> <p>‘To my knowledge, there have not been many cases recently. There are many US personnel still in Iraq; with most of the government; this is a less sensitive job than previously’.</p> <p>Gareth Stansfield, Professor of Middle East Politics and the Al-Qasimi Chair of Arab Gulf Studies at the University of Exeter, responded to the above-mentioned question:</p> <p>‘Iraqis can forget quickly, but they can also remember quickly. If, for instance, the Asaib Ahl al-Haq [militia] made good on their threats to target Americans then you could see guilt by association coming back in and the re-targeted [<i>sic</i>] of former American associates coming back. It has changed over time, but it could change again and quickly’.</p>	<p>Accepted: Thank you for suggesting this source. We will review and consider its inclusion when we update the CPIN following this review.</p>
<p>The following could perhaps be added as a new paragraph 5.2.11:</p> <p>The Iraq Body Count (IBC) organisation² maintains a list of documented civilian deaths in Iraq. In the period 20 March 2003 - 31 December 2011, when the US military left Iraq, 103 translators are listed as having been killed and a further 22 were wounded. In the more than five years since then until 28 February 2017 - the most recent date for which data has been entered in the database - only three translators are listed as having died in Iraq, one of whom was working for the Venezuelan embassy.</p>	<p>Accepted: Thank you for suggesting this source. We will review and consider its inclusion when we update the CPIN following this review.</p>

¹ (EASO COI Meeting Report Iraq, Practical Cooperation Meeting, 25-26 April 2017, Brussels; <https://www.easo.europa.eu/sites/default/files/publications/coi-iraq-meeting-report.pdf>).

² <http://www.iraqbodycount.org/>

Paragraph 5.2.10: 'in Daily Mail' should perhaps be 'in the Daily Mail'.	Accepted

3 Review of responses to COI requests

3.1 COI request – [constitution - dual - citizenship] [0718-033]

Mixed family nationality: parents Iraqi, child US National.

Can the child have dual Iraqi as well as US Nationality?

Would the child be at risk disclosing American nationality?

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>Paragraph 1.2.1: The English is unclear. The first two lines should be re-drafted.</p>	<p>Accepted: we will clarify this when we update the response.</p>
<p>A new Paragraph 1.3.1 should be inserted citing directly those elements of Iraq’s Constitution that deal explicitly with dual nationality, as follows:</p> <p>Iraq’s Nationality Law, Law 26 of 7 March 2006, states³:</p> <p>Article 10:</p> <p>I- An Iraqi who acquires a foreign nationality shall retain his Iraqi nationality, unless he has declared in writing renunciation of his Iraqi nationality.</p> <p>II- Iraqi courts shall apply Iraqi laws on holders of Iraqi nationality together with that of a foreign state.</p> <p>III- An Iraqi who has renounced his Iraqi nationality shall have the right to restore it if he/ she return to Iraq</p>	<p>Accepted: Thank you for suggesting this. We will update the response with this additional information.</p>

³ Refworld: Iraqi Official Gazette Issue 4019 dated March 7, 2006, <http://www.refworld.org/docid/4b1e364c2.html>. Accessed 12 November 2018.

<p>and stayed there for at least one year. The Minister may consider this person Iraqi as of the date of his return if he/she has submitted an application for restoring Iraqi nationality before the expiry of said period. This right is availed only once and for all.</p> <p>The law forbids Iraqis holding senior state positions from holding dual nationality:</p> <p>Article 9:</p> <p>III- A non-Iraqi who is granted Iraqi nationality pursuant to Articles 4, 6, 7 and 11) hereof shall not occupy the post of president or vice-president of Iraq.</p> <p>IV- An Iraqi who holds another acquired nationality shall not assume a top level sovereign or security position, unless he/ she has renounced that nationality.</p>	
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3.2 COI request – [Atheism and apostasy] [0718-021]

What is the treatment of atheists and apostates by society and the authorities?

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>Perhaps insert a new Paragraph 1.1.3:</p> <p>The US State Department’s International Religious Freedom Report for 2017 states:</p> <p>‘The constitution also guarantees the freedom of religious belief and practice for Christians, Yezidis, and Sabean-Mandeans, but does not explicitly protect followers of other religions, or atheists. According to the penal code, Jews are not allowed to hold jobs in state enterprises or join the military. The law prohibits the practice of the Bahai Faith and the Wahhabi branch of Sunni Islam’.</p>	<p>Accepted: Thank you for this additional information. We will update the response with part of the quote relating to information concerning atheism.</p>
<p>Paragraph 1.2.1: Amend using figures from the 2017 report, as follows:</p>	<p>Accepted: Thank you, we will update with</p>

<p>'The US State Department's International Religious Freedom Report for 2017 states gives the religious demography of Iraq as follows (out of a population of 39 million): 97 per cent Muslim (55-60 per cent Shia, about 40 per cent Sunni), 3 per cent others: Christian, Yazidis, Bahais, Sabaeen-Mandeans, Kakais and Jews. There is no estimate of the numbers of agnostics and/or atheists'.⁴</p>	<p>this more recent report.</p>
<p>Paragraph 2.1.1: First two lines....'state the following...states the following...'</p>	<p>Accepted: We will correct the English here.</p>

3.3 COI request – [Iraq: Kakai religion] [1018-073]

- What information is there on the beliefs, history and practices of the Kakai religion?
- Are they able to practice by law openly?

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>I suggest a new Paragraph 1.1.6 as follows:</p> <p>'The UNHCR's Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers, published in August 2007, records⁵:</p> <p>The Kaka'i are a distinct religious group that mainly reside in the areas of Kirkuk (mainly Tareeq Baghdad, Garranata, Wahid Athar, Hay Al-Wasitty, Eskan and Shorja as well as in the District of Daqooq), Mosul (Kalaki Yasin Agha area) and Khanaqin (mainly Mirkhas and Kandizard areas) in the Governorate of Diyala, but also in villages in the Kurdistan Region close to the Iranian border. Kaka'i can also be found in major cities such as Baghdad, Sulaymaniyah and Erbil. There is little information about this group as it favours incorporated elements from several religions, including Islam.</p> <p>The Kaka'i believe in reincarnation, with each soul having to pass through 1,001 incarnations in order to achieve the "ultimate heavenly rewards". According to the tradition, male members of the Ahl i-Haq</p>	<p>Accepted: thank you for suggesting this. We will update the response with this additional information.</p>

⁴US State Department, International Religious Freedom Report for 2017 <https://www.state.gov/documents/organization/281228.pdf>. Accessed 13 November 2018.

⁵ UNHCR, Eligibility Guidelines for Assessing the International Protection Needs of Iraqi Asylum-Seekers, August 2007, <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=46deb05557&skip=0&query=Guidelines&coi=IRQ>. Accessed 13 November 2018.

<p>never cut or trim their moustaches. This habit is prohibited by Islam, according to which the moustache must always be kept short. Generally, the Kaka'i marry among their community. According to the Encyclopaedia of the Orient, there are an estimated 200,000 Kaka'i in Iraq.</p> <p>The group has its spiritual centre in the village of Hawar in the Governorate of Sulaymaniyah. Most are ethnic Kurds, but speak their own language called Macho (alternate names are Hawramani, Old Gurani).</p>	
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3.4 COI request – [Iraq: Non-state armed groups] [0918-018]

- Treatment of AWOL from the Peshmerga in Kurdistan.
- Records of those gone AWOL from the Peshmerga.
- Contracts signed at recruitment: Peshmerga.
- Treatment of AWOL from the Iraqi army.
- Records of those gone AWOL from the Iraqi Army.
- Contracts signed at recruitment: Iraqi Army.
- Re-recruitment into either.

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>'AWAL' on pages 1 and 2 should be 'AWOL'.</p>	<p>Accepted: We assume you mean that we should change the acronym AWOL, used in error, to AWAL. We will make this correction.</p>
<p>Paragraph 1.1.1: Second line, spelling of 'unauthorised' should be corrected.</p>	<p>Not accepted: We have been unable to find this.</p>

3.5 COI request – [Iraq: Iraqi army and the Kurdish Region] [10/18-047]

- Can the PUK and Peshmerga join the Iraqi Army and remain in their previous posts?
- Can Iraqi army border officers work in the Kurdish region of Iraq?

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>Page 2: Delete ‘...as working...’</p>	<p>Accepted: we will correct this error.</p>
<p>Paragraph 1.4.1, sixth line: Perhaps insert ‘[sic]’ after ‘Haider al-Abadia’. His surname is in fact ‘al-Abadi’. This is not a Home Office error. The original Reuters article spells it wrongly.</p>	<p>Accepted: we will add [sic] to the text.</p>

3.6 COI request – [Iraq: Palestinian women with Iraqi husbands] [0918-007]

Further information regarding Palestinian women in Iraq:

- Palestinian women’s status in Iraq when married to an Iraqi man.
- Mixed marriage: Palestinian women - any discrimination or ability to obtain government documents.
- Ability to receive medical treatment and give birth in hospital without a residence permit.

<p>Apart from the amendment suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>Paragraph 1.2.3: Part of the first paragraph of this paragraph is worded somewhat clumsily and should perhaps be redrafted thus: ‘On 4 January 2018 the European Asylum Support Office (EASO) query system, citing the 7 March 2014 report from the Swedish Migration Agency (Lifos) and Norway’s Landinfo, Palestinians in Iraq, stated that in the event of obtaining an identity card and residence permit: ‘Palestinians who have.....’</p>	<p>Accepted: we take the point about considering plain English for future, but it is a disproportionate use of our time to go back in to old requests and correct minor points that don’t improve the understanding significantly.</p>

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3.7 COI request – [Iraq: Honour crimes] [0618-096]

- Do honour crimes occur in Arab culture and what are Arab marriage traditions regarding procedure and age?

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>Paragraph 1.1.6: This extract is wrongly attributed to the MRGI/CCCR report. In fact, it is from the EASO Cooperation Meeting report cited in footnote 3 on this page.</p>	<p>Accepted: we will correct this referencing error.</p>
<p>At footnote 3, ‘Coopration’ should be ‘Cooperation’.</p>	<p>Accepted: we will correct this spelling mistake.</p>
<p>Paragraph 1.1.7: This is in fact an extract from the MRGI/CCCR report. ‘The same report...’ should be changed to ‘The MRGI/CCCR report...’</p>	<p>Not accepted: ‘the same report’ refers to the MRGI/CCCR report quoted in the preceding paragraph.</p>
<p>I suggest a new Paragraph 2.2.4 (and associated footnote and inclusion in Bibliography) as follows: ‘On 17 December 2017 Human Rights Watch reported that Iraq’s parliament had rejected the proposed amendments to the Personal Status Law, stating⁶: ‘Iraq’s parliament has rejected proposed amendments to Iraq’s Personal Status Law (PSL) that would allow</p>	<p>Accepted: thank you for suggesting this. We will update the response with this additional information.</p>

⁶ Human Rights Watch ‘Iraq: Parliament Rejects Marriage for 8-Year-Old Girls’, 17 December 2017, <https://www.hrw.org/news/2017/12/17/iraq-parliament-rejects-marriage-8-year-old-girls>. Accessed 15 November 2018.

<p>religious judges to impose discriminatory law on family matters, Human Rights Watch said today.</p> <p>‘The amendments would have covered areas including inheritance and divorce, and, by giving powers to impose family laws to certain religious communities, would have allowed girls to be married as young as age 8 under some of these laws. The head of the women’s rights committee in parliament rejected the initiative in mid-November, blocking the bill. However, two leading women’s rights organizations say that some parliament members have threatened to continue to push for the amendments to secure votes in some parts of the country in the May 2018 parliamentary elections...</p> <p>‘...Parliament members from several Shia Islamic parties, spearheaded by the Fadhila Party, to which the justice minister belongs, proposed the amendments on November 1. The proposed amendments would enshrine Shia and Sunni religious establishment control over marriage-related matters and require courts to make exceptions to existing legal protections...</p> <p>‘...The current law sets the legal age for marriage at 18, but allows a judge to permit girls as young as 15 to be married in “urgent” cases. According to a 2016 The United Nations Childrens’ Fund (UNICEF) report, 5 percent of Iraqi children are married by age 15, and 24 percent by age 18. According to a women’s rights lawyer, this is because many families arrange marriages through religious marriage contracts outside the legal system, though they are illegal.’</p>	
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3.8 COI request – [Iraq: Zoroastrians] [11/18-009]

- How are Zoroastrians treated by society in Iraq?
- Are they located in specific areas?
- Zoroastrian views towards others, Islam and the state?

<p>Apart from the amendment suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>I would suggest a new Paragraph 1.1.3 (and associated footnote and inclusion in Bibliography, as follows:</p> <p>‘Wilting in the Kurdish Sun: The Hopes and Fears of Religious Minorities in Northern Iraq, a report issued in May 2017 by the independent and non-partisan US Commission on International Religious Freedom (USCIRF)</p>	<p>Accepted: thank you for suggesting this. We will update the response with this additional information.</p>

states⁷:

'Zoroastrianism was founded in ancient Iran approximately 3500 years ago. From 600 BCE to 650 CE it was the official religion of Persia. In 2006 the number of Zoroastrians worldwide was estimated to be fewer than 190,000.

'Zoroastrianism is monotheistic: the Zoroastrian God is referred to by followers as Ahura Mazda, and the religion is the world's oldest based on divine revelation. Zoroastrians believe Ahura Mazda revealed the truth through the Prophet Zoroaster, and revere a book of Holy Scriptures called The Avesta.'

'Today, Zoroastrians are present in several areas of the KRI and other areas of Iraq. According to a leader of the Iraqi Zoroastrians, Zoroastrians are mainly found in Duhok (specifically in Zakho) and in Sulaimaniya (in the Darbandikhan, Ranya, Qalaat Daza and Chamchamal districts).

'Nevertheless, there are no accurate estimates of their numbers; they are still referred to as "Muslims" on identity documents despite engaging in Zoroastrian religious rituals. The spokesperson for the KRG's] Ministry of Endowment and Religious Affairs told researchers that Zoroastrian leaders have reported up to 100,000 members, although the official stressed that this number may be exaggerated.'

⁷ *Wilting in the Kurdish Sun: The Hopes and Fears of Religious Minorities in Northern Iraq*, a report issued in May 2017 by the independent and non-partisan US Commission on International Religious Freedom (USCIRF), May 2017, <http://www.uscirf.gov/sites/default/files/KurdistanReligiousFreedomReport.pdf>. Accessed 15 November 2018.

3.9 COI request – [Iraq: Asayish, Kurdish secret police] [0918-086]

Any information on recruitment, particularly from the police force?

Training?

Any repercussions for leaving without permission?

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>Paragraph 1.1.1: Perhaps insert '[sic]' after the word 'principle', as this latter is wrongly-spelled in the original source.</p>	<p>Accepted: we will make this clarification.</p>
<p>Paragraph 1.1.3: Perhaps end the first paragraph within this paragraph at '...stated'. The words '...the following on the apotheosizing of Asayish by the Kurds' could be deleted as they seem to me to be unnecessary and somewhat unclear.</p>	<p>Accepted: we will make this clarification.</p>
<p>Paragraph 1.1.3: Perhaps insert '[sic]' after the word 'supporting', as this latter is a grammatical error that appears in the original source.</p>	<p>Accepted: we will make this clarification.</p>
<p>Paragraph 1.2.2: '...membership to...' should be '...membership of...'</p>	<p>Accepted: we will make this clarification.</p>
<p>Paragraph 1.4.2: The following is very unclear: '...[united as the KRG's forces...in the Peshmerga]...' This should be amended to: '...[i.e. the structures of Divisions 70 and 80, the two largest Peshmerga groups]...'</p>	<p>Accepted: we will make this clarification, but we will need to provide a referenced source for this.</p>

<p>Paragraph 1.7.5: Perhaps insert '[sic]' after the words 'deemed to having' and 'indefinitely', as these are grammatical errors that appear in the original source.</p>	<p>Accepted: we will make this clarification.</p>
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3.10 COI request – [Iraq: Non-state armed groups] [0918-018]

Treatment of individuals who have been absent without leave (AWOL) in the Peshmerga and Iraqi Army; employment contracts in the Peshmerga and Iraqi Army; records of individuals who have gone AWOL.

<p>Apart from the amendments suggested below, this Information Request is accurate and based on reputable sources.</p>	<p>Thank you.</p>
<p>Paragraph 1.3.1: Perhaps insert '[sic]' after the words 'deemed to having' and 'indefinitely', as these are grammatical errors that appear in the original source.</p>	<p>Accepted: we will make this clarification.</p>

4 About the Reviewer

Alan George gained his first degree, in geography, from Oxford University in 1970. He obtained his Master's degree (on Middle East geography) at Durham University in 1972, and his PhD, on Syria, also at Durham in 1978. Since 1984 he has worked as a freelance journalist, researcher and expert witness in political asylum cases involving the Middle East. As a journalist, he contributed to a wide range of UK and international publications including the Observer, the Independent and the Guardian, and he frequently commentates on Middle Eastern affairs for radio and television. He is a former Head of Research at the Arab-British Chamber of Commerce and a former Assistant Director of the Council for the Advancement of Arab-British Understanding (CAABU). His publications include Syria: Neither Bread Nor Freedom (Zed Books, London, 2003); Jordan: Living in the Crossfire (Zed Books, London, 2005); Fortschritt oder Lahmung: Baschar al-Assads Syrien, a chapter in Hartmut Fahndrich (Ed.) Verebte Macht: Monarchien und Dynastien in der arabischen Welt, Campus Verlag, Frankfurt/New York, 2005; and Patronage and Clientelism in Bashar's Social Market Economy, a chapter in The Alawis of Syria: War, Faith and Politics in the Levant, published by Hurst & Co in 2015. In 2003-2013 he was a Senior Associate Member of St Antony's College, Oxford University. In November 2013 he was appointed Senior Visiting Research Fellow in the Department of Middle Eastern Studies at London University's King's College.

He gave written and oral evidence in the following six Iraq Country Guidance cases heard by the courts: **LM (Educated women – Chaldo-Assyrians – risk) Iraq CG [2006] UKAIT 00060**; **SI (expert evidence - Kurd - SM confirmed) Iraq CG [2008] UKAIT 00094**; **SR (Iraqi Arab Christian: relocation to KRG) Iraq CG [2009] UKAIT 00038**; **MK (documents – relocation) Iraq CG [2012] UKUT 00126 (IAC)**; **HM and others (Article 15(c)) Iraq CG [2012] UKUT 00409 (IAC)**; and **BA (Returns to Baghdad) Iraq CG [2017] UKUT 00018 (IAC)**. He also gave written and oral evidence in the three most recent Syria Country Guidance cases, **AR (Kurd: not risk per se) Syria CG [2006]**; **SA and IA (Undocumented Kurds) Syria CG [2009] UKAIT 00006**; and **KB (Failed asylum seekers and forced returnees) Syria CG UKUT 00426 (IAC)**; and in the two most recent Palestinian Territories Country Guidance cases: **MA (Palestinian Arabs – Occupied Territories – Risk) Palestinian Territories CG [2007] UKAIT 00017**; **HS (Palestinian – return to Gaza) Palestinian Territories CG [2011] UKUT 124 (IAC)**. He also gave written and oral evidence in the Country Guidance case of **KK IH HE (Palestinians - camps) Lebanon CG [2004]**; and **AT and Others (Article 15c; risk categories) Libya CG [2014] UKUT 318 (IAC)**.

Annex G

Annex G: Review of the January 2018 Home Office Country Policy and Information Note on Iraq: Internal relocation, civil documentation and returns

Prepared for the Independent Advisory Group on Country Information (IAGCI)

Dr Alan George, Senior Visiting Research Fellow, King's College. Review undertaken in personal capacity.
November 2018

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1 Introduction

1. This review assesses the Home Office Country Policy and Information Note (CPIN) entitled ‘Iraq: Internal relocation, civil documentation and returns’, on the basis of instructions from the Independent Advisory Group on Country Information (IAGCI).

1.1 Instructions

2. The invitation to tender for the contract to review this CPIN stipulates:

‘Country Policy and Information Notes aim to provide an accurate, balanced and up to date summary of the key available source documents regarding the human rights situation, with respect to the issues selected for coverage, in the country covered. The purpose and scope of the reports are clearly set out in an introductory section of the document. Reviewers should evaluate the reports in this context and seek to identify any areas where they can be improved. Specifically the review should entail:

- assessing the extent to which information from source documents has been appropriately and accurately reflected in the CPIN Reports
- identifying additional sources detailing the current human rights situation in the country with respect to main grounds for asylum claims (which are noted in each CPIN Report)
- noting and correcting any specific errors or omissions of fact
- making recommendations for general improvements regarding, for example, the structure of the report, its coverage or its overall approach

Reviewers should follow these specific guidelines:

- the review should focus exclusively on the country of origin information contained within the document, and not pass judgment on the policy guidance provided
- the CPIN should be reviewed in the context of its purpose as set out above. It should consider the situation in the country up to the stated ‘cut off’ date for inclusion of information
- when suggesting amendments, rather than ‘tracking changes’ on the original CPIN, a list of suggested changes should be provided as part of a stand-alone review paper, and each report should be reviewed separately. A reporting template will be provided to reviewers (for reference please refer to most recent reviews on the IAGCI webpage for examples of the template)
- any suggestions for additional information (or corrections to information in the document) must be referenced to a source document for the Home Office to be able to use it (preferably Open Source). The Home Office may use foreign language source documents, but only if the information is considered essential and is not available in English language source

3. In undertaking this Review, I have been conscious that my role is to assess country of origin information, and that it is not my function to comment on Home Office policies.

1.2 Methodology

4. Essentially, I perused the CPIN line by line, seeking any errors and/or omissions, and considering whether the information presented, and the sources, were the most recent available. I also systematically checked each web address given in footnotes to check its validity. ‘Accessed 9 November 2018’ could perhaps replace the (somewhat dated) access dates included in all footnotes relating to internet links.

1.3 Summary of Review

5. Since the 2003 invasion, Iraq has undergone multiple upheavals that have threatened its continued existence as a unified state. The country continues to be wracked by sectarian and ethnic tensions and - albeit to a lesser extent than previously - armed conflict. Against that complex background, ‘Iraq: Internal relocation, civil documentation and returns’ offers a wide range of accurate and well-chosen information from reputable sources. I would note that some of the sources contradict each other. I am unsurprised by this because regulations and procedures in Iraq can be applied arbitrarily, can differ from one region to another and can change suddenly. In such a situation, the best that can be achieved is to present such information as there is, accepting that, beyond certain limits, it is not possible to offer any comprehensive, internally consistent portrayal of the position nationally.

6. My only significant suggested additions relate to the new National ID cards (section 2.5 of the Review) and to entry/residency restrictions that apply in the KRG (section 2.8 of the Review).

7. In addition, I identified a number of stylistic and typographical flaws and several invalid internet links.

8. As a general point, I noted that the great majority of the references dated from 2016 and earlier. While the CPIN is dated October 2018, it contained only one reference dating from 2017 (a letter from the British Consulate General in Erbil); and two from 2018, comprising letters from the Iraqi Embassy and Iraqi Ambassador. In part this can be explained in terms of the significant time lag that can often occur between changes on the ground and the emergence of reports of those changes. At the same time, I am unaware of any major new publications in 2017-2018 on the topics covered by this CPIN, or having a significant bearing on those topics, other than those very few that I have cited in my Review below. To the best of my knowledge and belief, the CPIN - assuming that it is amended along the lines I suggest in my Review - will be based on the most up-to-date material available.

1.4 Understanding of the themes addressed in the CIG Reports

9. Generally, this CPIN usefully reflects prevalent legal usage and academic understandings of the themes under consideration

1.5 Quality and balance of sources

10. The sources used are reputable and relevant to the time period covered by this CPIN.

2 Review

2.1 Documentation section

Paragraph 5.1.10: The link at footnote 24 is no longer valid. It is now the address for the IOM's 2017 Iraq Fact Sheet; but this does not include addresses for the Civil Status Department. The link at footnote 24 should be changed to: https://docplayer.net/7970905-Country-fact-sheet-iraq.html	Accepted. We will address this point when we update the CPIN following this review.
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2.2 Civil Status ID Card (CSID) section

Paragraph 5.4.1: The link at footnote 45 no longer functions, and I cannot find an alternative.	Accepted. We will address this point when we update the CPIN following this review.
Paragraph 5.4.2: The link at footnote 47 no longer functions, and I cannot find an alternative.	
Paragraph 5.4.8: Note that the link in footnote 63 is accessible only by subscription.	
Paragraph 5.4.11: 'IOM Country Fact Sheet, August 2013' should read 'August 2014'. The link at footnote 68 no longer functions. It is now the address for the IOM's 2017 Iraq Fact Sheet. The link should be changed to: https://docplayer.net/7970905-Country-fact-sheet-iraq.html .	Accepted. We will update these references when we update the CPIN following this review.

2.3 Iraqi Nationality Certificate (INC) section

Paragraph 5.5.1: The link at footnote 70 no longer functions, and I can find no alternative internet address for the cited article.	Accepted. We will address this point when we update the CPIN following this review.
Paragraph 5.5.2: The link at footnote 73 no longer functions, and I can find no alternative internet address for the cited text.	Accepted. We will address this point when we update the CPIN following this review .
Paragraph 5.5.3: The word 'booklet' could be problematic. In fact, INCs are single pieces of thick paper, folded in the centre. They are like a booklet in the sense that they open out; but they do not have pages.	Partially accepted. We note this comment but we are reflecting what the source has said. We don't think it's materially

	different, but can point out that ‘booklet’ may not be 100% precise or should not be read as meaning a book with multiple pages (something like that).
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2.4 Passport

Paragraph 6.2.1: Footnote 105, should be ‘accessed 9 November 2018’.	Not accepted. The CPIN was published in October 2018 and not all of the sources were updated before this publication date.
Paragraph 6.2.1: ‘...Civil Stats ID...’ should be ‘...Civil Status ID...’	Accepted. We will address this point when we update the CPIN following this review .
Paragraph 6.2.1: The link at footnote 106 no longer functions and I cannot locate any alternative.	Accepted. We will address this point when we update the CPIN following this review.

2.5 Iraqi National ID card (INIC)

<p>Paragraph 5.6.5: ‘The plan for the new card is a merger of both the CSID (Hawya Ahwal Al mdani) and the Iraqi Nationality (Jinsiya) in one solid document. The aim is to complete the process by end 2018. By end 2018 the new ID will be used instead of the current information card (Bitaqat Al Ma3lumat)’.</p> <p>The English is poor and it is not explained what is ‘the current information card’. It appears to me that this latter might be a reference to the residence cards issued in the KRG. This part of Paragraph 5.6.5 should be amended to:</p> <p>‘The new card combines the functions of the Civil Status ID card, Iraqi Nationality Certificate and residence cards, and the aim, as of mid-2017, was to complete the process of issuing the new cards by the end of 2018’.</p>	<p>Accepted. Thank you for identifying this. We are quoting directly from the source, hence the poor English, but we have not used quotation marks to indicate this. We will correct when we update the CPIN and also include any explanatory or contextual text in square brackets.</p>
<p>Paragraph 5.6.5: ‘The aim is to renew, update and clean the old database system to stop attempts of duplications and forgery; and to unify all different type and issued ID for both regional and central government for the period of 1991 – 2003 then 2003 - 2016’.</p> <p>I would suggest that the wording of this sentence be amended to make it more clear. Perhaps: ‘The aim was to renew, update and correct the old database system to counter attempts at forgery, and eliminate</p>	

<p>duplication; and to unify different types of ID issued by regional and central governments in the period since the Kurdish uprising and the related establishment of a no-fly zone in Kurdistan in 1991’.</p>	
<p>Paragraph 5.6.6: ‘department of civil states’ should be ‘department of civil status’.</p>	<p>Accepted. We will address this point when we update the CPIN following this review.</p>
<p>Paragraph 5.6.7: ‘The new card is processed by the department sending the collected data to the central database at Iraq’s MOI to be checked and recorded centrally, then permitting the department to process and issue the new card. No deadline is identified because of operational/technical issues which related to the security and military operations taking place in other parts of Iraq’.</p> <p>This is unclear and clumsy. It’s not clear, for example, precisely which ‘department’ is being referred to in the first and third lines. The second sentence in this paragraph states that ‘no deadline is identified’; but it is not stated by whom. That sentence also refers to ‘security and military operations taking place in other parts of Iraq’. This begs the question: ‘parts of Iraq other than what?’ Again, perhaps it would be better to quote directly from the source.</p>	<p>Accepted. Thank you for identifying this. We are quoting directly from the source, hence the poor English, but we have not used quotation marks to indicate this. We will correct when we update the CPIN and also include any explanatory or contextual text in square brackets.</p>
<p>I suggest a new Paragraph 5.6.8:</p> <p>A Canadian Immigration and Refugee Board report in August 2017 stated that the head of the Iraqi national ID program had reportedly said that the new national identity card would be distributed from mid-2015 and would replace the “national ID, citizenship ID, ration form and address form”. A newly established directorate under the Department of Domestic Affairs [Ministry of Interior] (The Directorate for National ID Card, in Arabic called Mudiriyyat shu'un al-bitauqa alwataniyya) is responsible for the project, which is being implemented via German companies. The new cards are made of plastic and have similar dimensions to a credit card.¹</p>	<p>Accepted. Thank you for providing this source. We will review and consider its inclusion when we update the CPIN following this review.</p>
<p>I suggest a new Paragraph 5.6.9:</p> <p>A February 2017 Landinfo report, citing information from the Norwegian embassy in Amman, Jordan, stated that the following issuance procedures would apply²:</p>	<p>Accepted. Thank you for providing this source, which we will include when we update the CPIN following this review.</p>

¹ Research Directorate, Immigration and Refugee Board of Canada, ‘Iraq: Requirements and procedures to obtain one of the new national identity cards, including from abroad and by proxy; information on the expansion of the issuance program, including when, where and to whom the new national identity cards have been issued; security features of the new cards; incidents of fraud (2014-2017)’, 23 August 2017, <https://www.justice.gov/eoir/page/file/1043191/download>, accessed 7 November 2018.

² Research Directorate, Immigration and Refugee Board of Canada, ‘Iraq: Requirements and procedures to obtain one of the new national identity cards, including from abroad and by proxy; information on the expansion of the issuance program, including when, where and to whom the new national identity cards have been issued; security features of the new cards; incidents of fraud (2014-2017)’, 23 August 2017, <https://www.justice.gov/eoir/page/file/1043191/download>, accessed 7 November 2018.

Making an appointment

In order to apply for a new ID card, one has to make an appointment with the local Civil Status Office via the website of the Directorate for national ID cards. The application form can be downloaded from the same website and has to be completed before your meeting with the local Civil Status office (Norway's embassy in Amman 2016).

Handing in and documentation

When you hand in your application form, you must bring with you your present ID card, proof of citizenship, proof of residence, and your ration card. These documents will be declared invalid and will be kept by the Civil Status Office when the new card is issued (Norway's embassy in Amman 2016).

Meeting in person

The applicant must meet in person as a photo will be taken, and there will be scanning of the applicant's iris. The application form with biometry will be sent to a central office in Baghdad where the information is checked. Here the card is also personalized before it is returned to the local Civil Status Office duly completed (Norway's embassy in Amman 2016). Fee In order to obtain the ID card, you pay a fee of 5000 Iraqi dinars [approximately C\$5.34]. This applies both to the first time the card is issued and to the renewal of an expired card (Norway's embassy in Amman 2016). Period of validity As to the period the new cards are valid, the embassy notes that this is somewhat unclear and that the embassy has received no official information regarding this. The embassy refers to information from the producer of the card where it may seem that the card will be valid for a period of ten years.

Fee

In order to obtain the ID card, you pay a fee of 5000 Iraqi dinars [approximately C\$5.34]. This applies both to the first time the card is issued and to the renewal of an expired card (Norway's embassy in Amman 2016). Period of validity As to the period the new cards are valid, the embassy notes that this is somewhat unclear and that the embassy has received no official information regarding this. The embassy refers to information from the producer of the card where it may seem that the card will be valid for a period of ten years.

Waiting period

Landinfo has received contradictory information about how long it will take to get the new ID card. While Norway's embassy in Amman (2016) says that it can take up to 15 days from the time the application has been submitted until the card can be picked up, the Iraqi consulate in Oslo (telephone conversation in

<p>November 2016) states that it takes about three months to get the new card. The new system of adding the personal number to the cards can be the reason why the process takes some extra time, according to the consulate. It can also be that one has to allow some time for an appointment after the application has been handed in, and that the consulate has included this time in its estimate.</p> <p><i>Application from abroad</i></p> <p>According to the information obtained by the Norwegian Embassy in Amman (2016) from the above-mentioned KRG representatives, it is, as of today, not possible to apply for the new ID card from abroad. The Iraqi consulate in Oslo has also informed us (telephone conversation November 2016) that one has to travel to Iraq to obtain the new ID card. To get cards issued outside Iraq, the cards issued will still be old ID cards, probably in expectation of the time when the embassy will be getting the right equipment. As for the old ID cards, the same procedure is used as before whereby one can apply via the Iraqi embassy. Iraqis born in Norway may be issued old ID cards as well.</p> <p>All newborns get the new cards as long as they are being registered in areas where the necessary equipment is available. Moreover, according to the Iraqi consulate in Oslo (telephone conversation November 2016), there are certain groups that are prioritized, such as some government employees. (Norway 16 Feb. 2017, 3-4).</p>	
<p>Suggested new Paragraph 5.6.10:</p> <p>The Landinfo report continued:</p> <p>‘The new ID card was first issued on September 13, 2015, in Jisr Dyala in Baghdad. Since then, cards are being issued in most parts of Iraq.</p> <p>The Iraqi consulate in Oslo (telephone conversation November 2016) recently informed Landinfo that all Iraqis will get their own personal number that will be added to the new ID card. This number can be used in every circumstance.</p> <p>The consulate further informed us that the new ID cards are issued by the same Civil Status Offices or Departments as the old cards. Some of these have still not obtained the equipment necessary to issue the new cards, but the equipment has been distributed to all provinces with the exception of Anbar, Ninewa and Salahal-Din, where there are ongoing military operations. The consulate noted, however, that it may be that new cards are being issued in some peaceful areas of Salah-al-Din, such as Tuz Khourmatu. Certain areas of Diyala, such as Baquba, have not received the new equipment either.</p> <p>The new card will also be issued in the Kurdistan region (KRI), but there may be certain smaller towns/villages here where they are still without the necessary equipment to make the new cards. From</p>	<p>Accepted. Thank you for providing this source. We will review and consider its inclusion when we update the CPIN following this review.</p>

<p>January 1, 2017, passports will no longer be issued in KRI based on the old ID cards, according to the consulate.</p> <p>When Norway’s embassy in Amman met with representatives of the Kurdish authorities for self-rule in April 2016, they were told that all Iraqis will have to acquire the new ID card within five years. Much like the consulate, the representatives of KRG also noted that no one in KRI would be issued a passport after January 1 unless they have the new ID card...</p> <p>...It is not possible to say anything about when the card will be issued in all parts of Iraq, among other things, because of the ongoing military operations in Anbar, Ninewa, and Salah-al-Din’.</p>	
<p>Suggested new Paragraph 5.6.11:</p> <p>The Canadian Immigration and Refugee Board report of August 2017 cited a representative of the IOM’s office in Iraq as having reported that a ‘Major General of the Directorate of Nationality of the Kurdistan Regional Government’ had stated that there had been no cases of fraud involving the new cards.³</p>	<p>Accepted. Thank you for providing this source, which we will include when we update the CPIN following this review.</p>

³ Research Directorate, Immigration and Refugee Board of Canada, ‘Iraq: Requirements and procedures to obtain one of the new national identity cards, including from abroad and by proxy; information on the expansion of the issuance program, including when, where and to whom the new national identity cards have been issued; security features of the new cards; incidents of fraud (2014-2017)’, 23 August 2017, <https://www.justice.gov/eoir/page/file/1043191/download>, accessed 7 November 2018.

2.6 Assistance

<p>I suggest a new Paragraph 6.1.11: A November 2018 report from the Internal Displacement Monitoring Centre⁴ commented: ‘Access to documentation is perhaps the most pressing challenge. Civil documents are needed not only to address property issues, but also to access services including education, healthcare and the national food distribution system. They are also a prerequisite for return...As of 2017, almost 13 per cent of internally displaced families said they lacked documentation for at least one of their members. Our research for this study generated a similar figure. Just over ten per cent of all survey participants said they were missing some of their documentation. The issue appears particularly prevalent among refugees returning from Syria. Some sources reported that documentation was sometimes confiscated upon arrival in the Syrian camps. ‘To complicate matters further, documents issued under ISIL, including marriage and birth certificates, are not recognised by the Iraqi government, and need to be re-registered with the authorities. Female-headed households face particular challenges, particularly if their husband has died, disappeared or is accused of affiliation with ISIL. In the absence of a husband, is very difficult for women to fulfil administrative requirements such as registering the birth of a child’.</p>	<p>Partially accepted. This section is about redocumentation assistance, not difficulties arising from a lack of documentation. However we will review this source when updating the CPIN to determine if this information could be used elsewhere.</p>
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2.7 Civil Status ID Card (CSID)

<p>Paragraph 6.4.5: First line, remove the word ‘for’.</p>	<p>Accepted. We will address this point when we update the CPIN following this review.</p>
<p>Paragraph 6.3.9: footnote 118: ‘Republic of Iraq, ‘Ministry of Foreign Affairs, ‘Consular services, the civil status ID, http://www.mofa.gov.iq/en/submenu.php?id=64, accessed 10 August 2016’ This should be changed to: ‘Republic of Iraq, ‘Ministry of Foreign Affairs, ‘Consular services, the civil</p>	<p>Not accepted. The CPIN was published in October 2018 and not all of the sources were updated before this publication date.</p>

⁴ Internal Displacement Monitoring Centre, ‘Nowhere to return to: Iraqis’ search for durable solutions continues’, November 2018, <http://www.internal-displacement.org/sites/default/files/publications/documents/201811-iraq-case-study-report.pdf>, accessed 9 November 2018.

status ID, <https://www.mofa.gov.iq/en/the-civil-status-id>, accessed 9 November 2018

2.8 Entry to the Kurdistan Region of Iraq

Paragraph 7.1.1 Second line, remove the word ‘for’.	Accepted. We will address this point when we update the CPIN following this review.
Paragraph 7.2.2: ‘Those arriving by air at Erbil or Sulamaniyah airports, are similarly being directed to report to the nearest Asayish office to regularise their stay. It is worth re-iterating the point that admission does remain at the discretion of Kurdish immigration and border officials and that temporary restrictions can be imposed and withdrawn without notice.’ This is a repeat of Paragraph 7.1.1. Possibly it should be deleted??	Accepted. We will address this point when we update the CPIN following this review.

2.9 Entry restrictions

Paragraph 7.3.1: ‘...authorities continuing concern...’ Insert an apostrophe after ‘authorities’.	Accepted. We will address this point when we update the CPIN following this review. [We are quoting directly from the source, so we will indicate the error with a [sic]]
Paragraph 7.3.2: ‘Various sources said that IDPs can enter KRI by air. Two of the sources said that Iraqi citizens can enter KRI through the airport without having a sponsor. In addition, IRC said that most IDPs are currently arriving in KRI by plane, and that most of these flights are coming from Baghdad. IOM said that IDPs from Baghdad usually have money to support themselves and would be welcome in KRI, if they arrive by domestic airline, not by car. The international humanitarian organisation further stated that entry through the airports was without problems, but that the IDPs cannot stay indefinitely, and they would have to register by the authorities at the airport. According to UNHCR, short-term residential documents are issued at the airport to those who come by air from abroad or from other places in Iraq and are extended at the place of residence upon issuance of security clearance by Asayish. In this respect, IDPs are able to settle in KRI temporarily. UNHCR and two sources stated different durations of the short-term residence permit. According to two sources, this short-term residence permit is being issued by the Asayish. The international humanitarian organisation explained that a person might be able to get away with not registering upon arrival in the airport, but that person would then not be able to move around freely inside KRI, and an unregistered	Accepted. We will address this point when we update the CPIN following this review.

<p>person would not be able to rent a place to live’ This is a repeat of Paragraph 7.1.4. Possibly it could be deleted?</p>	
<p>Paragraph 7.3.3: ‘...In December 201574, UNHCR...’ Delete ‘74’ as this is a footnote number from the source publication.</p>	<p>Accepted. We will address this point when we update the CPIN following this review.</p>
<p>I suggest the following new Paragraph 7.3.5: A UNHCR report dated April 2017 stated that ‘⁵ ‘Residency conditions vary considerably among the three governorates of the KR-I and depend on the individual’s ethnic/religious background, place of origin and pre-existing links in the KR-I [i.e. the KRG-controlled Kurdish autonomous area’. The UNHCR report states that generally Kurds and Turkmen (other than those from the then IS-occupied town of Tal Afar in Nineveh governorate) are treated more leniently than Arabs, and persons originating from previously IS-held areas are subjected to much closer scrutiny and controls than others. With regard to Erbil governorate, ‘Specific entry instructions have been issued by the Kurdish security agency (Asayish) after the launch of the Mosul offensive on 17 October 2016: persons from Ninewa Governorate seeking to enter Erbil via Erbil Airport (or via a road checkpoint) have to provide a local Kurdish sponsor, who must be present at the point of arrival and accompany the individual or family to the Asayish office in Ankawa (Erbil) to obtain a letter for the individual/family to remain in Erbil. This letter should be presented to the Asayish branch in the area in which the IDP chooses to reside within 48 hours from the date of issuance. ‘Conditions for obtaining a residency permit (“tourist pass”) vary depending on the person’s profile and family. Kurds, Turkmen (not from Tal Afar), Yazidis, Shabaks and Kaka’is generally do not require a residency permit in order to legally reside in Erbil Governorate. Arabs, Turkmen (from Tal Afar) as well as Christians not originating from the KR-I must obtain a short-term, renewable residency permit (“tourist pass”) in order to legally reside in Erbil Governorate. The “tourist pass” is needed in order to pass checkpoints, rent an apartment or stay in hotels, and to access the labour market’. With regard to Dohuk Governorate the UNHCR’s April 2017 report states:</p>	<p>Accepted. Thank you for suggesting this additional source, we will review the material and consider for the next update.</p>

⁵ UNHCR, *Iraq: Relevant COI for Assessments on the Availability of an Internal Flight or Relocation Alternative (IFA/IRA): Ability of Persons Originating from (Previously or Currently) ISIS-Held or Conflict Areas to Legally Access and Remain in Proposed Areas of Relocation*, 12 April 2017, <http://www.refworld.org/docid/58ee2f5d4.html>).

‘Residency requirements vary depending on the individual’s ethnic/religious background. Persons of Arab and Turkmen background, who do not originate from the KR-I and who arrive overland via Erbil Airport, require a sponsor who is a permanent resident of Dohuk Governorate, in order to access and legally reside in Dohuk Governorate. Once allowed entry following a security check, the sponsored person has to apply for residency documents with the Asayish in the area in which s/he seeks to settle. Residency documents are issued for either one year or one month, depending on a security assessment undertaken by the Asayish. In practice, Arabs usually obtain renewable residency documents valid for one month only. Those who reside in Dohuk Governorate without a sponsor/residency documents face difficulties in accessing employment and are subject to arrest and forced relocation to Garmawa IDP Camp. Persons of Yazidi, Kurdish and Christian background do not require a residency permit’.

With regard to **Sulaymaniyah Governorate** the same UNHCR report records:

‘Arabs and Turkmen originating from Tal Afar and who return to Iraq from abroad on international flights to Sulaymaniyah Airport, will be issued with a “tourist pass” (valid for 10, 15 or 30 days) following a security check. Within 10 days after arrival, and irrespective of the validity period of the “tourist pass”, they are required to report to the local Asayish office in the area in which they seek to reside. In certain areas, persons of Arab origin require a Kurdish sponsor in order to legally remain:

- Chamchamal
- Rania
- Dukan
- Piramagroon
- Arbat-Tanjro
- Bazyan
- Barda Qaraman, and
- Hajiawa

‘Following a security check, the Asayish issues them a so-called “Asayish Code”, which provides them also with access to basic services and the right to work. Although persons of Arab origin seeking to reside in Sulaymaniyah district (including Sulaymaniyah City) do not require a Kurdish sponsor in order to legally remain in the area, they are, in practice, often not issued an “Asayish Code”. Instead, they only obtain short-term extensions of their “tourist pass”. Unlike those with an “Asayish Code”, persons holding a “tourist pass” do not have access to education, are not allowed to work, cannot open a local

bank account, and face difficulties with renting accommodation given their uncertain legal status. Since the beginning of the Mosul military operation on 17 October 2016, access and residency requirements for persons from Ninewa are the same as in Erbil Governorate’.

2.10 Entry restrictions in Baghdad and the south

I suggest a new Paragraph 8.2.8:

A November 2018 report from the Internal Displacement Monitoring Centre⁶ commented:

‘For those who do wish to return, freedom of movement restrictions can be a significant barrier. The rules that govern moving to a new city in another part of the country or even in the same governorate are opaque... Movement restrictions appear to be unequally imposed depending on IDPs’ ethnic and religious identity. Sunni IDPs are particularly affected. Akram, who currently lives in Hamam Al Alil, tried to return to Zummar but was prevented him from doing so by Kurdish forces. An NRC [Norwegian Refugee Council] scoping mission on the Iraqi-Syrian border found that many Sunnis returning from Syria had been blocked from entering areas under Kurdish control because of their perceived affiliation with ISIL’.

Accepted. Thank you for suggesting this additional source, we will review the material and consider for the next update.

⁶ Internal Displacement Monitoring Centre, ‘Nowhere to return to: Iraqis’ search for durable solutions continues’, November 2018, <http://www.internal-displacement.org/sites/default/files/publications/documents/201811-iraq-case-study-report.pdf>, accessed 9 November 2018.

3 Information about the Reviewer

Alan George gained his first degree, in geography, from Oxford University in 1970. He obtained his Master's degree (on Middle East geography) at Durham University in 1972, and his PhD, on Syria, also at Durham in 1978. Since 1984 he has worked as a freelance journalist, researcher and expert witness in political asylum cases involving the Middle East. As a journalist, he contributed to a wide range of UK and international publications including the *Observer*, the *Independent* and the *Guardian*, and he frequently commentates on Middle Eastern affairs for radio and television. He is a former Head of Research at the Arab-British Chamber of Commerce and a former Assistant Director of the Council for the Advancement of Arab-British Understanding (CAABU). His publications include *Syria: Neither Bread Nor Freedom* (Zed Books, London, 2003); *Jordan: Living in the Crossfire* (Zed Books, London, 2005); *Fortschritt oder Lahmung: Baschar al-Assads Syrien*, a chapter in Hartmut Fahndrich (Ed.) *Verebte Macht: Monarchien und Dynastien in der arabischen Welt*, Campus Verlag, Frankfurt/New York, 2005; and *Patronage and Clientelism in Bashar's Social Market Economy*, a chapter in *The Alawis of Syria: War, Faith and Politics in the Levant*, published by Hurst & Co in 2015. In 2003-2013 he was a Senior Associate Member of St Antony's College, Oxford University. In November 2013 he was appointed Senior Visiting Research Fellow in the Department of Middle Eastern Studies at London University's King's College.

He gave written and oral evidence in the following six Iraq Country Guidance cases heard by the courts: **LM (Educated women – Chaldo-Assyrians – risk) Iraq CG [2006] UKAIT 00060**; **(SI (expert evidence - Kurd - SM confirmed) Iraq CG [2008] UKAIT 00094**; **SR (Iraqi Arab Christian: relocation to KRG) Iraq CG [2009] UKAIT 00038**; **MK (documents – relocation) Iraq CG [2012] UKUT 00126 (IAC)**; **HM and others (Article 15(c)) Iraq CG [2012] UKUT 00409 (IAC)**; and **BA (Returns to Baghdad) Iraq CG [2017] UKUT 00018 (IAC)**. He also gave written and oral evidence in the three most recent Syria Country Guidance cases, **AR (Kurd: not risk per se) Syria CG [2006]**; **SA and IA (Undocumented Kurds) Syria CG [2009] UKAIT 00006**; and **KB (Failed asylum seekers and forced returnees) Syria CG UKUT 00426 (IAC)**; and in the two most recent Palestinian Territories Country Guidance cases: **MA (Palestinian Arabs – Occupied Territories – Risk) Palestinian Territories CG [2007] UKAIT 00017**; **HS (Palestinian – return to Gaza) Palestinian Territories CG [2011] UKUT 124 (IAC)**. He also gave written and oral evidence in the Country Guidance case of **KK IH HE (Palestinians - camps) Lebanon CG [2004]**; and **AT and Others (Article 15c; risk categories) Libya CG [2014] UKUT 318 (IAC)**.

Annex H

Annex H: Review of the November 2018 Home Office Country of Origin Information on Zimbabwe: Opposition to the Government

Prepared for the Independent Advisory Group on Country Information (IAGCI)

By **Kudzai Chatiza** (Director and Researcher at the Development Governance Institute [Pvt] Limited).

December 2018

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1 Introduction

This report is an independent assessment detailing considered views regarding the evidence (not the UK Government policy) relied upon in relation to issues of opposition to the government in Zimbabwe. It also covers similarly focused appraisal of additional documents as listed below. This particular report covers the second Note of November 2018.

1.1 Instructions

Specific instructions received from the Independent Advisory Group on Country Information (IAGCI) were for me to review two Country Policy and Information Notes entitled i) Zimbabwe: Sexual Orientation and Gender Identity (contained in a separate report), and ii) Zimbabwe: Opposition to the Government. The stated objective was to assess the adequacy of the evidence contained in and thus relied upon by those for whom the Note is meant. A clear note was made regarding the review not being about relevant UK Government policy on the subject. Ten (10) Responses to Information Requests were also reviewed (shared in the Report reviewing the Note on Sexual Orientation) and these were the following:

1. Response to an information request (Zimbabwe) Ref 0818.039 of August 13th 2018, Legal System-Judiciary: Customary Marriage-Divorce;
2. Response to an information request (Zimbabwe) Ref 05/18-096 of May 31st 2018, Political System and Affiliation: Online Political Content;
3. Response to an information request (Zimbabwe) Ref 06/18-047 of June 22nd 2018, Children: Children with Autism;
4. Response to an information request (Zimbabwe) Ref 1018.045 of October 19th 2018, IDP's, Refugees: Treatment-Returned Asylum Seekers;
5. Response to an information request (Zimbabwe) Ref 03/18-063 of March 26th 2018, Legal System-Judiciary: Land Ownership;
6. Response to an information request (Zimbabwe) Ref 10/17-014 of October 10th 2017, Political Affiliation: Use of Social Media;
7. Response to an information request (Zimbabwe) Ref 05/17-053 of May 19th 2017, Religion: Ethnicity;
8. Response to an information request (Zimbabwe) Ref 04/18-049 of April 17th 2018, Media Bloggers: Treatment of Journalists;
9. Response to an information request (Zimbabwe) Ref 02/18-102 of February 28th 2018, Person with Learning Difficulties: Disabled Persons;
10. Response to an information request (Zimbabwe) Ref Legal System-Judiciary: Desertion from the Armed Forces;

1.2 Methodology

The review was conducted as a desk study with very limited primary data collection (only two key informants were consulted for their knowledge on treatment of key populations). Selected policy, academic and development literature available to the reviewer was utilised to crosscheck evidence in the documents availed by the IAGCI. This was done through Internet searches and reliance on the reviewer's pre-existing relevant literature. In reviewing the literature the reviewer's lived experiences and appreciation of the Zimbabwean context helped provide a grounded assessment of the evidence/facts. The report provides views separately for the two Notes and the ten Information Requests

1.3 Summary of Review

Specific Comments on the Political Opposition Note

This Note cites credible sources and refers to relevant events. It provides some space to state institutions (the Zimbabwe Human Rights Commission) more than the Sexual Orientation one. This makes the Note more nuanced and balanced in its use of local voice in the analyses. Overall, this is a more complete Note perhaps unsurprisingly given the wealth of available information and the depth of debate on Zimbabwe's political situation over the years. The remainder of the report captures some issues that may require consideration in finalising the Note. These are presented in a table with paragraphs to which the comments refer clearly cited. However, first are general recommendations below:

HO comment: to note that the reviewer commented on a draft, not final, version of the country policy and information note on political opponents which was largely written in November 2018.

We had been gathering information and reviewing our position following the August 2018 elections but had not completed our full internal quality assurance and consultation process by the time the IAGCI required the note for review. We agreed to provide the draft so that the reviewer did not duplicate research we had already undertaken. While we were satisfied that the draft CPIN was of a high quality, it is likely further minor changes would have been made before it was published.

1.4 Main Suggestions relating to the COI Requests:

1. Increased citing of country of origin data sources (academic literature, state/non-state and case law) can help complete and contextualise analyses
2. Complementing rapidly sought data/evidence with some primary data collection (e.g. interviewing recognised country experts).

1. **Accepted.** We aim to provide a wide range of sources as a matter of good research practice, although sometimes this may be limited by access to the websites cataloguing academic and other materials. We await further information from the reviewer about suggested sources to consider.
2. **Accepted.** We accept this in principle but time constraints in delivering COI responses to case workers (our standard response time is within 5 working days) means that this is not usually viable.

However, where further information is likely to be key to an individual case or is likely to affect other cases we may consider first-hand research, usually via the Foreign and Commonwealth Office but sometimes through direct contact with 'experts' or via country visits.

1.5 Understanding of the themes addressed in the CPINs

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

The themes discussed in the report are appropriate. They bring out relevant issues regarding the structure and performance of the opposition in Zimbabwe as well as the responses of the government/government-aligned actors. The transition that Zimbabwe has experienced since November 2017 is acknowledged and the balance of references in terms of the period covered is relatively good. A historicized analysis is provided to the extent that events from earlier in the current decade and immediately before are woven into the discussion.

1.6 Quality and balance of sources

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

The quality of references/sources is good. However, the balance is not. For instance, on treatment of opposition (paragraph 5) only 3 of 12 (25%) sources are of Zimbabwean organizations, all non-state. In this particular case evidence from Zimbabwean political parties, local media and other local sources (some of which are cited in the reports by international organizations and foreign governments) could be helpful.

2 Review

2.1 General

The sources cited in the Political Opposition Note sum up Zimbabwe's generalizable inability to fully democratise under and since Mugabe (see ICG 2014¹, Matyszak 2016², <https://www.voazimbabwe.com/a/zimbabwe-united-nations-sanctions-in-place-emmeron-mnangagwa/4571385.html>) with the US government for instance retaining sanctions pending full implementation of the constitution. The Note was read mindful of the changes and continuities in Zimbabwe's politics, which have remained restrictive and reflective of stalled democratisation, itself a colonial and post-colonial legacy. In this historical context new approaches and technologies in/for opposition to government are emerging exercised by what Hodzi (2018³) refers to as New Actors in the Game.

We are not clear if there is a specific recommendation; could the reviewer elaborate.

While providing interesting historical context on the difficulties of past reforms the sources are quite dated (2 years and more we usually aim to include information published over the last 18 months) and we would favour more recent material. Further, we do not believe the detail is necessarily relevant to assessing most politically-based claims.

We are not able to obtain full access to the material on the Hodzi website since it requires paid membership.

2.2 The Political Landscape

The reference to the military factor and the interests it protects, the current President's consolidation of power in context of frayed legitimacy and continuities with the past as well as actual priorities for the government need further discussion. This is important as these provide the fundamentals for how the Government of Zimbabwe deals with opposition groups. While proper characterisation of the political economy may be difficult making a fair attempt helps provide a good basis for the rest of the Note.

We agree that context to the current political situation is relevant and more might be added but we are not clear what the recommendation is. It would therefore be helpful if the reviewer could be more specific about what are the key points that need to be covered that the CPIN does not currently and to provide the relevant sources so that we can

¹ Resistance and Denial: Zimbabwe's Stalled Reform Agenda, ICG Africa Briefing No. 82

² Matyszak D (2016) Reluctant Reformers: Legislative Misalignment and the New Constitution, Research and Advocacy Unit

³ Hodzi O (2018) New Actors in the Game: The MDC-Alliance and Election Manipulation in Zimbabwe, RUSI Newsbrief Vol. 38, No. 9 of October 2018, www.rusi.org

There is a mix of issues and processes discussed in the different sources cited. Indicators of the stressed political economy cited include cabinet appointments. However, the formal/informal overtures to the opposition e.g. the proposal to have Mr. Nelson Chamisa as Leader of the Opposition in Parliament, the talk about a Government of National Unity to address the legitimacy issues surrounding Mr. Mnangagwa's presidency and the issue of national dialogue are not presented. The reports cited give a premium to electoral democracy and provide sufficient evidence to suggest that security and electoral reforms, devolution and fixing governance are critical for moving forward.

Reports cited appear to insufficiently engage with managing a military-assisted transfer of government. For instance, appointment of former military leaders is not seen as security sector reform despite this having created opportunities for vertical movement. Use of local sources would have allowed making references to statements by the current Commander Defence Forces suggesting a process of professionalization of the army. Security sector transformations following the military-aided departure of President Mugabe need interrogation although public information may be scanty.

The Harmonised Elections of July 30, 2018 are discussed using the EU Election Observer Mission and the International Crisis Group. While these are globally reputable institutions reference to the legal material out of Zimbabwe including the Constitutional Court ruling of August 2018 would provide additional insights. Similarly, SADC, COMESA and AU election Observer Mission Reports have additional material worth adding to ensure the section retains context.

In terms of the Political Framework the full range of state and non-state actors is not defined. For instance, by providing prominence to Parliament and political parties issues around how government is established and how it functions, not discussed in the cited references (Freedom House and the EU Election Observer Mission) the section is provides a partial political framework for Zimbabwe

assess whether they merit inclusion.

Accepted. We agree that context about the approach of ZANU-PF with regard to the political opposition is likely to be relevant to the CPIN. However it would be helpful if the reviewer could elaborate on what he specifically considers relevant to include and if he can provide sources that 'address the proposal to have Mr. Nelson Chamisa as Leader of the Opposition in Parliament, the talk about a Government of National Unity to address the legitimacy issues surrounding Mr. Mnangagwa's presidency and the issue of national dialogue', in order that we can assess if they merit inclusion.

Accepted. We agree that it would be useful to have information surrounding the professionalisation of the army and security sector reform. However, it is unclear quite how much this is relevant to the consideration of protection claims in the UK. Please can the local sources referred to be provided in order that we can assess the merit of their inclusion in this section.

Accepted. We will look to include further sources as variation in international observer reports would add depth and value to this section.

Not accepted. The section is designed to give caseworkers a brief overview of the political

framework. Additional detail on the establishment and function of government is not necessary to achieve this or is usually required by decision makers.

2.3 The Political Opposition

The concept of political opposition is somewhat equated to political parties despite parts of the Note rightly citing other forms of social organization involved in political activities of different forms. On the issue of Political Freedom this section would benefit from data collated regularly by local organizations like the Media Monitoring Project of Zimbabwe alongside local academics given the space allocated to a Canadian one.

In sub-paragraphs 3.2.8 and 9 EU and Human Rights Watch reports are invoked around election-related tensions, coercion in resettlement areas and the lack of reforms. These reports appropriately refer to adequate cases unfortunately without noting reforms that created an environment noted as decidedly different from Mugabe-era elections. This is a gap local sources could have plugged.

The reality of Mugabe-era civil servants manning the Zimbabwe Electoral Commission is referred to and drawing on references that do not cite that at least one Commissioner is a former opposition politician. Further, the staffing of public institutions in context of a ruling party in power for 38 years is something only recent experiences in Ethiopia⁴ have clearly departed from.

The political transitions within the MDC party led by Morgan Tsvangirayi after his death are inadequately covered to the extent that they illuminate the party as a site of struggle around candidate selection, the changes in approaches and internal performance with a bearing on the theme of opposition to government.

Related, omission of ZAPU in this section excludes a key actor in opposition politics as the party has a

Accepted. It would be useful to have further information on political freedom. Please can the local sources referred to be provided in order that we can assess the merit of their inclusion in this section. We are also aware of the MMPZ (which we understand was re-branded as Media Monitors Zimbabwe in March 2017) but unfortunately we are unable to access their website.

Accepted. See above.

Accepted. This would be useful information. Can the reviewer provide sources to address this gap?

Not accepted. The change of leadership is covered in short in para 3.3.2. More detail on the internal wranglings of the MDC is, in our view, not generally necessary to inform decision makers considering claims based on being (or perceived to be) in opposition to government.

⁴ The country's Prime Minister appointed an opposition politician to head the Elections body.

<p>strategic role on national power-broking more so as it has veterans of Zimbabwe’s liberation war.</p> <p>Some Social Media-inspired Groups consolidated their activism into direct competition for political power as Independent Candidates at local government level in the July 30 2018 elections including a cohort around Pastor Evan Mawarire. Adding this dimension provides more complete information.</p>	<p>Accepted. A profile of ZAPU will be included in the CPIN. Please could the reviewer suggest relevant sources.</p> <p>Accepted. Additional information on social media inspired groups would be useful. Please could the reviewer suggest relevant sources to address this gap.</p>
<p>2.4 State Security Apparatus</p>	
<p>A full definition of the whole security apparatus (Police, Army, Intelligence and Prisons) would be appropriate before citing references that are analytical. Reliance on DFAT and USSD publications of 2016 and 2017 respectively misses insights regarding post-Mugabe transformations even though they remained anchored on realigning of loyalties within ZANU PF. The latter point makes some analysts argue that there are continuities rather than significant democratic changes.</p> <p>The sub-section on the army is defined well but there is a gap in discussing the army’s role in dealing with the opposition overtime and recently.</p> <p>Abbreviation for the intelligence agency is CIO (not CSO). The CIO is centralised in the President’s Office, fairly commonplace and has been generally pro-ZANU PF.</p> <p>The list of pro-ZANU PF groups can be completed with reference to women’s organizations, youth associations (including University-based ones), farmers and other empowerment groups. The informalisation of the economy (e.g. in mining, street trading, urban public transport etc.) has occurred around de facto and de jure protection by ZANU PF and at times making convincing pretensions of being a supporter of the party. Because some of the pretensions are a survival strategy it is possible that non-ZANU PF citizens/residents adapt or co-opt that identity to access opportunities while errand members of associations explain any adverse treatment (including eviction) as victimisation for supporting the opposition. Civil Society Organizations at all levels have also successfully drawn on this ‘anti-ZANU PF currency’ with donors. This complexity is missing.</p>	<p>Accepted. A definition and insight into the post-Mugabe transformation (or not) of the security forces would be of use. Please can sources be provided to enable us to assess the merit of inclusion.</p> <p>Not accepted. This is covered in the section on treatment of the opposition paras 5.2.12 -14, 5.4.1, 5.7.9 and in section 7 - 7.1.8. This section simply provides an overview of it as a functioning organisation.</p> <p>Accepted. This typo will be rectified in the next version.</p> <p>Partially accepted. We agree that it may be useful to mention various groups other than security services which might have a role in restricting the space in which opposition groups operate. However, the commentary covers a number of points and it is not clear if all of these are relevant. It would be helpful if the reviewer could clarify</p>

	<p>which points he thinks are key and provide appropriate sources. The point about the possible behaviour of individuals (and organisations) is interesting but it is unclear of this an empirical / reported observation or the reviewer's (reasoned) conjecture.</p>
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2.5 Treatment of Opposition to Government

<p>This section draws on 12 sources of which 3 are Zimbabwean. The 3 are civil society excluding the political parties. Statements by political parties and cases heard at Zimbabwe's courts of law (often represented by the Zimbabwe Lawyers for Human Rights, ZLHR) can easily be gathered to strengthen this section. Some of the cases confirm the resilience of Zimbabwe's justice delivery institutions. This point (about what works) is decidedly missing in this and other section of the Note.</p> <p>On demolition of housing the Note refers to DFAT 2016 and a citation locating the debate in property rights discourse. An addition could extend this debate to include i) politicised peri-urban land and housing access, ii) disconnection of some of this housing and urban land from relevant local authorities, iii) the frequency of (and numbers affected by) evictions with demolitions of housing (as well as household livelihoods). There is a commission of inquiry into the sale of urban and peri-urban state land underway. This material (on evictions) and the complex issues surrounding it provides nuance to the discussion.</p> <p>Violence against MDC supporters occurs alongside intra-ZANU PF violence. The latter spikes when loyalties change and historically subside in any run-up to an election as the party rallied its members against MDC supporters.</p>	<p>Accepted. We aim to provide a range of sources and points of view where possible. It would be useful to have additional information in this section especially evidence that demonstrates the workings of Zimbabwe's justice system in relation to treatment of the opposition. If examples of relevant court cases and political statements could be provided, that would be helpful.</p> <p>Accepted. It may be useful to have additional information on demolition of housing / eviction in the context of the treatment of the political opposition (or perceived opposition). However, the sources would need to be considered as it may not be necessary to have the level of detail suggested.</p> <p>If the reviewer could recommend sources, that would be useful.</p>
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2.6 Treatment of Civil Society Groups

<p>On registration of CSOs an addition is that some are registered as Trusts and Foundations while others are subsidiaries of religious organizations and thus not necessarily registered under the Private</p>	<p>Accepted. Further insight in to the state's relationship with NGOs would be useful.</p>
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Voluntary Organizations (PVO) Act, former Welfare Organizations (WO) Act from before 1980. While the treatment of non-state organizations is generally one of suspicion it varies across localities/districts or provinces. At the same time, non-state organizations are clustered by thematic areas of work under the National Association of Non-Governmental Organizations (NANGO), which also determines their relations with the state. For instance, child rights organizations enjoy different relations with the state to women's organisations just as organisations considered as local government CSOs, LGBTI and other categories of human rights organizations. These nuances are important for the Note to avoid a blanket statement regarding state-civil society relations in Zimbabwe.

Please can sources be provided to enable us to assess the merit in inclusion.

3 Review of responses to COI requests

[*Note to reviewer:* Reviewers will be given up to ten Information Requests to consider. These are short (usually not more than 2-3 pages each) requests about the bases for asylum claims that are not included in CIG Reports.]

Each Information Request should be referred to by its title and Request Number.

The Reviewer should include a sentence or two summarizing the nature of the request. The reviewer should then respond, briefly, to the question of whether the response provided by the Home Office is, in their opinion, factually accurate, complete, well supported with empirical evidence.

Responses to each information request need not be longer than one or two paragraphs.

1-10. COI request – [Title of Request] [Request number]

Summary – 1 or 2 sentences

<p>Reviewer’s determination of the quality of the response, using the above criteria. Any supplementary information should be cited as completely as possible.</p>	
<p>1. Response to an information request (Zimbabwe) Ref 0818.039 of August 13th 2018, Legal System- Judiciary: Customary Marriage-Divorce;</p> <p>The response is generally detailed and provides good evidence in describing the setting up and management of marriage institutions in Zimbabwe. Recognising that Zimbabwe administers justice based on some form of dualism in this respect (customary and statutory law) the social protections attendant to an unregistered customary union (including co-habiting) require articulation. This is important in terms of understanding lobola and associated ceremonies less is financial but more as social transactions. The individual families as ‘social witnesses’ more than the gifts exchanged are important at contracting and dissolution of a marriage. As such, a proper issued and witnessed gupuro (gift at marriage dissolution presented by the spouse initiating the process to the other) is the equivalent of a court-issued document. This is vindicated in the Goncalves v Rodrigues case of 2003 cited in the Note.</p> <p>On the request, it is perhaps unclearly worded to the extent that it starts with a particular kind of marriage (customary marriages) but potentially opens up to all types, which may explain why the Note is long and comprehensive.</p>	<p>Accepted. Thank you for the positive comments.</p>
<p>2. Response to an information request (Zimbabwe) Ref 05/18-096 of May 31st 2018, Political System and Affiliation: Online Political Content;</p>	<p>Thank you for the positive comments. The BBC information provides commentary on fake news generally</p>

<p>The response is appropriate to the extent that it acknowledges how the web has become a site for information dissemination/acquisition, engagement and broader discourse in many ways more accessible than other pre-ICT media. It also rightly acknowledges state authorities' interest in regulating not only physical gatherings but virtual as well. An additional dimension needed is one focusing on fake news (see https://www.bbc.com/news/av/technology-46149888/what-is-fake-news-and-how-can-you-identify-it, Hodzi 2018⁵) to provide additional balance given the actual and potential culpability of online political activists.</p>	<p>but does not aid the answering of the questions posed by the caseworker or provide specific background information on fake news in Zimbabwe.</p> <p>As noted previously, the Hodzi source is not accessible however if a copy could be provided, consideration of inclusion will be given.</p>
<p>3. Response to an information request (Zimbabwe) Ref 06/18-047 of June 22nd 2018, Children: Children with autism</p> <p>Additional information on child rights framework (and actual state performance in this regard) would strengthen the response. What is contained currently presents the true state of the challenge. The social and child protection framework and initiatives (sector-led by the Ministry responsible for social welfare, mainly donor-aided with funding coordinated through UNICEF, Save the Children Fund, Plan International Zimbabwe etc.) targeting orphan and vulnerable children have not fully supported children with autism. Private initiatives are urban-based mainly and therefore access is limited to non-existent for most children. Citing UNICEF's Situation of Women and Children Reports (done every 5 years, latest one is of 2015), Annual Reports and Child Poverty Reports, Analyses of Government Budgets from a children's perspective (available on UNICEF Zimbabwe Website), the UN-coordinated Universal Periodic Reviews also have sections on national performance regarding child rights conventions.</p>	<p>Accepted.</p> <p>The suggestions and sources would add depth to the response.</p> <p>We will revise and update the response in light of the reviewer's observations.</p> <p>If he is able to provide specific sources and links, that would be helpful.</p>
<p>4. Response to an information request (Zimbabwe) Ref 1018.045 of October 19th 2018, IDP's, Refugees: Treatment-Returned Asylum Seekers;</p> <p>The information provided here is not up-to-date (references cited) suggesting that additional work is needed. Apart from Internet sources some interviews with state and non-state actors may be needed. A consideration of the changes in political attitudes and policies arising from the November 2017 political transition is therefore necessary.</p>	<p>Partially accepted.</p> <p>We accept that the source used is not as recent as we would like, although it is a topic that is not well documented and there is limited recent information. Suggested sources would be appreciated.</p> <p>We do have scope to undertake</p>

⁵ Hodzi O (2018) New Actors in the Game: The MDC-Alliance and Election Manipulation in Zimbabwe, RUSI Newsbrief Vol. 38, No. 9 of October 2018 (www.rusi.org)

	<p>primary research if an issue is key to a particular claim type or if there is a recurring theme arising in requests. But this research would be undertaken over a longer timeframe. Given the time constraints on COI responses (a standard 5-day turnaround) it is unlikely to be possible to interview primary sources in most of these cases.</p>
<p>5. Response to an information request (Zimbabwe) Ref 03/18-063 of March 26th 2018, Legal System-Judiciary: Land Ownership;</p> <p>Land ownership options in the response are not adequately detailed. One can own land based on full-freehold title (the response cites this), based on a lease (state or privately issued), a permit (state-issued) and for communal land usually no documents are given (however, a certificate of occupation can be granted by the Council for one’s area with the consent of the relevant traditional leader). Land redistribution since 2000 created some of the gaps in the ‘paperwork’ or in land administration. Some Zimbabweans occupy and may have used land for more than half a generation now but without the relevant ‘papers’. The authority to be on the piece of land may have been granted by dislodged informal structures, may be disowned by the issuing authority or may never have been formal in the first place. Those who forcibly took over land and set up informal governance structures may not possess any formal papers confirming their land occupancy let alone ownership (including legally clear description of the pieces of land). However, this does not stop a concerned citizen-beneficiary from making a report to the police to register violation of their land rights however acquired/secured. In communal areas some conflicts are expressed in the form of letters to Councils and thus evidence on the nature of a land dispute can be formally available even where the allocation is legally in dispute (and disputable). In short land disputes have been and continue to be a common feature of Zimbabwe’s history even before independence and not just in former-white commercial areas but in communal areas as well. The land information management system and overall administration in Zimbabwe has had some considerable dislocation and suffered non-</p>	<p>Accepted.</p> <p>This is useful information in terms of the questions posed by the caseworker. The sources suggested will be considered and response updated as appropriate.</p>

<p>development for some time. Good academic and development literature exists on this.</p> <p>A more complete version of this response can easily be developed using information from sites like ZimbabweLand, based on Prof. Scoones' research on Zimbabwe (University of Sussex), Ministry responsible for lands statements, presentations and notices (http://www.lands.gov.zw/department/resettlement-planning-dvpmt/planning), FAO Zimbabwe.</p>	
<p>6. Response to an information request (Zimbabwe) Ref 10/17-014 of October 10th 2017, Political Affiliation: Use of Social Media;</p> <p>A generally complete response. The Government of Zimbabwe has developed surveillance apparatus and has personnel capable of undertaking the necessary surveillance virtually (including through lawful interception and tapping of communication). New laws are being proposed to tackle cyber-crime and to deal with spreading 'falsehoods', which is a euphemism for dealing with political opponents (see https://www.techzim.co.zw/2017/08/jail-terms-fo-cyber-criminals-inciting-violence-revenge-porn-racistxenophobic-material-bullying/)⁶.</p>	<p>No recommendation</p> <p>Thank you for the positive comment and source suggestion.</p>
<p>7. Response to an information request (Zimbabwe) Ref 05/17-053 of May 19th 2017, Religion: Ethnicity;</p> <p>A generally summary and appropriate response to the effect that relevant laws are progressive, implementation is inadequate and profiling (ethnic, racial etc.) is usually associated with political interests and calculations. Part of the latter (contextualising the risks) may add value to responses. At the same time attempts at distinguishing ZANU PF, the Government and society (individual and corporate citizens as well as communities in their unpoliticised form) could also be of additional value.</p>	<p>Accepted.</p> <p>Thank you for the positive comments.</p> <p>It would be useful to have additional information on racial discrimination from the groups (ZANU PF, the Government and society) outlined.</p>
<p>8. Response to an information request (Zimbabwe) Ref 04/18-049 of April 17th 2018, Media Bloggers: Treatment of Journalists;</p> <p>A response reflective of the situation.</p>	<p>Thank you for the positive comments.</p>

⁶ Accessed December 9th 2018

<p>Response to an information request (Zimbabwe) Ref 02/18-102 of February 28th 2018, Person with Learning Difficulties: Disabled Persons;</p> <p>A generally responsive submission. However, the cited references relate to the urban situation. It would be useful to also include mention of rural areas where at times low cost resettling may be easier amongst one's relatives and communities especially if the person has some resources. Urban resettlement works better for people with some skill that can be exploited/used within an informalising context.</p>	<p>Accepted.</p> <p>Thank you for the positive comments. We consider that the response addresses the general question of availability of care for the disabled (we were not directed to look at particular) and we do not propose to revisit the response, However, we agree that there may be circumstances where relocation to rural areas may be appropriate and to that end, for future cases, we'd welcome any further information and sources the reviewer has on this subject.</p>
<p>9. Response to an information request (Zimbabwe) Ref Legal System-Judiciary: Desertion from the Armed Forces;</p> <p>The nature of information requested included security/military information that is not readily available from sources consulted. Depending on the volume of associated cases an investment in consolidating academic inquiries on the subject may aid the users of the information. Some of the available publications have used oral history techniques to gather data from deserters in exile as well as key informants from military institutions in Zimbabwe (see Maringira G 2015⁷; 2016⁸)</p>	<p>N/A recommendation.</p> <p>Not accepted insofar as the volume of associated cases does not, as far as we are aware, warrant investment in academic enquiries or primary source research. However, the suggested sources will be considered if the situation changes.</p>

⁷ When the Military became Militarised: Accounts of Zimbabwean Army Deserters in Exiled in South Africa, African Security Review, Vol 25, Issue 1
<https://doi.org/1080/10246029.2015.1121884>

⁸ Political violence within Arm Barracks: Desertion and Loss Among Exiled Zimbabwean Soldiers in South Africa, Social Dynamics, Vol. 42, Issue 3,
<https://doi.org/1080/02533952.2016.1238390>

4 Information about the Reviewer

I am a 49-year-old Zimbabwean development professional with at least 24 years of development planning and management experience in Zimbabwe and other East and Southern African countries. The work experience includes working for the Government of Zimbabwe (early career, 1991-2), local and international non-governmental organizations. I am involved in offering development research and advisory (consultancy) services in Africa for governments, UN agencies and civil society organizations. Additionally, I teach on a part-time basis at the University of Zimbabwe (Planning School) and at the Midlands State University (Local Government Studies). I have qualifications in Rural and Urban Planning (University of Zimbabwe, Bachelor's and Master's degrees) and Development Studies (Swansea University, PhD). The report is an independent and professional piece of work that should not be read as the official thinking of Development Governance institute on the subject.

Annex I

Annex I: Review of the May 2018 Home Office Country Policy and Information Note on Zimbabwe: Sexual orientation and gender identity

Prepared for the Independent Advisory Group on Country Information (IAGCI)

by Kudzai Chatiza (Director and Researcher at the Development Governance Institute [Pvt] Limited).

December 2018

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1. Introduction

This report is an independent assessment detailing considered views regarding the evidence (not the UK Government policy) relied upon in relation to issues of i) sexual orientation and gender identity and ii) opposition to the government in Zimbabwe. It also covers similarly focused appraisal of additional documents as listed below.

Instructions

(Set out what you have been instructed to do, here is also a good place to point out that the review is focussed on country of origin information, and you have not been asked to comment on home office policy)

Specific instructions received from the Independent Advisory Group on Country Information (IAGCI) were for me to review two Country Policy and Information Notes entitled i) Zimbabwe: Sexual Orientation and Gender Identity, and ii) Zimbabwe: Opposition to the Government. The stated objective was to assess the adequacy of the evidence contained in and thus relied upon by those for whom the Note is meant. A clear note was made regarding the review not being about relevant UK Government policy on the subject. Ten (10) Responses to Information

Requests were also reviewed and these were the following:

- Response to an information request (Zimbabwe) Ref 0818.039 of August 13th 2018, Legal System-Judiciary: Customary Marriage-Divorce;
- Response to an information request (Zimbabwe) Ref 05/18-096 of May 31st 2018, Political System and Affiliation: Online Political Content;
- Response to an information request (Zimbabwe) Ref 06/18-047 of June 22nd 2018, Children: Children with Autism;
- Response to an information request (Zimbabwe) Ref 1018.045 of October 19th 2018, IDP's, Refugees: Treatment-Returned Asylum Seekers;
- Response to an information request (Zimbabwe) Ref 03/18-063 of March 26th 2018, Legal System-Judiciary: Land Ownership;
- Response to an information request (Zimbabwe) Ref 10/17-014 of October 10th 2017, Political Affiliation: Use of Social Media;
- Response to an information request (Zimbabwe) Ref 05/17-053 of May 19th 2017, Religion: Ethnicity;
- Response to an information request (Zimbabwe) Ref 04/18-049 of April 17th 2018, Media Bloggers: Treatment of Journalists;
- Response to an information request (Zimbabwe) Ref 02/18-102 of February 28th 2018, Person with Learning Difficulties: Disabled Persons;
- Response to an information request (Zimbabwe) Ref Legal System-Judiciary: Desertion from the Armed Forces;

The review of the Political Opposition CPIN and the Information Requests are contained in a separate report.

1.1 Methodology

The review was conducted as a desk study with very limited primary data collection (only two key informants were consulted for their knowledge on treatment of key populations). Selected policy, academic and development literature available to the reviewer was utilised to crosscheck evidence in the documents availed by the IAGCI. This was done through Internet searches and reliance on the reviewer's pre-existing relevant literature. In reviewing the literature, the reviewer's lived experiences and appreciation of the Zimbabwean context helped provide a grounded assessment of the evidence/facts. The report provides views separately for the two Notes and the ten Information Requests

2. Summary of Review

2.1 Summary of the most important findings

A generally positive assessment of the Note is made. This flows from the quality of evidence cited and the balanced manner it is used to explain specific aspects in each theme of focus. Use or citing of current material from recognised institutions (Governments of Australia, USA, Zimbabwe etc. reputable international institutions like UN agencies, Afrobarometer, Human Rights Watch etc. and local organisations like ZLHR, GALZ etc.) on the theme of sexual orientation and gender identity provides credible evidence on which to competently rely. The Note particularly discusses why Zimbabweans who could potentially aid the LGBTI community, are unable to do so based on the fear of losing their societal standing as well as being under-prepared (point 2.3.12)

2.2 Specific Comments on the Sexual Orientation Note:

Given the politicised nature of LGBTI issues in Zimbabwe the use/citing of foreign state-based and international-agency literature may not by itself help as it 'weaponises it for purposes of foreign policy'. Further, over-universalising opinions of political leaders as happened with former president Mugabe increases the risk of silencing other voices. This may explain why LGBTI rights campaigners became unwitting pawns in Mugabe-era anti-West conversations. As part of the review there are particular streams of literature that could potentially be more helpful in strengthening the Note. The first stream is of academic literature (e.g. Mabvurira et al 2012, Hunt et al 2017). This stream of literature provides i) more nuanced understandings regarding local-to-national struggles with gay rights issues in Zimbabwe, and ii) efforts as part of attending to key populations within the framework of HIV and AIDS to create professional capacities to respond to the needs of the LGBTI community. The second stream is of Zimbabwean case law, which provides a corpus of evidence of consolidation of the extent of the on-going institutional transformations regarding safeguarding LGBTI rights in Zimbabwe. Three particular cases to point to relate to i) that of former President Canaan Banana, ii) one relating to Kimumwe vs Gonzales, and iii) a 2015 case relating to a civil servant linked to a Gay Party (Raymond Sibanda). These two streams of literature as sources of evidence help better locate application of the 'case by case' approach frequently referred to in the Note. A third stream is of Zimbabwe's media. Beneath the polarisation related to the national political drama, media products engage with the debate on LGBTI rights in ways that can be helpful. For instance Zimbabwe's Daily News of October 1st 2018, among others, cited a representative of one of the Teachers' Unions acknowledging lack of workplace policies to '...handle these people because the moment when we identify somebody who is homosexual we go after them with arrows and chase them away and that will not kill or deal with the problem'.

Home Office: We have responded to a number of the points raised above under 'Main Suggestions...' and the respective specific subsection below. It is perhaps, however, worth commenting on what appears to be a common theme in the reviewer's comments: the range and balance of sources contained in the CPIN (material up to April/May 2018 – the Daily News article above post-dates the CPIN). We aim to capture information from a diverse but informed range of local and international sources. However, material about the human rights of LGBT people is relatively limited and some of the most specific information is provided by foreign sources which may have more freedom to comment than Zimbabwean sources. We would welcome more credible and relevant local sources and therefore would be grateful if the

reviewer can suggest specific sources with full document titles and, ideally, links, which we can review and include in the CPIN to help improve the depth and breadth of information.

2.3 Main Suggestions relating to the SOGI CPIN:

<p>Suggestions</p>	
<p>1. Consideration of some academic literature and case law to strengthen available evidence (see below).</p> <p>2. Increased citing of country of origin public/state sources can help complete analyses and reduce binaries associated with use of actors/agencies at opposite ends of a debate/issue covered in a Note e.g. on LGBTI.</p> <p>3. Complementing rapidly sought data/evidence with some primary data collection (e.g. interviewing recognised country experts).</p>	<p>1. Accepted in principle that academic literature and Zimbabwean caselaw may improve the CPIN. Unfortunately, however, since full source details have not been provided and there is not specific reference to which parts of the sources are of interest, it is difficult to assess how relevant this information is. See also responses to comments in sections 3.3 and 3.4 below and the request for further information to assess value. In relation to case law mentioned above – the relevance of cases i) and ii) is not clear. Case iii) may be of value in respect of legal context and access to employment however without the full citations we are unable to locate the case. We’d be grateful if a link to, or copy of, the court’s determination can be provided in order for us to assess its value.</p> <p>2. Accepted. We recognize the value of presenting a range of sources, which can then be assessed in the round, although the range of material is sometimes limited by availability. Please provide examples of country of origin public/state sources that would address the suggestion raised.</p> <p>3. Accepted. We recognise the value of primary source research but need to balance that with time constraints and the cost implication of primary research such as fact-finding missions. However, where further information is likely to be key and is not readily available through desk-based research we will consider first-hand research, usually approaching the FCO to investigate on our behalf in the first instance.</p> <p>4. Partially accepted. CPINs are designed to assist decision makers considering particular claim types and exist as discrete, free-standing documents which contain</p>

<p>4. 'Overlaying/comparing' Notes to enrich country evidence consolidation.</p>	<p>information necessary to provide an informed assessment and assist decision makers. We therefore do not typically 'overlay' or 'compare' notes. However, we agree there is value in cross referencing within and between CPINs where there are common or overlapping themes and to help reduce duplication of research.</p>
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2.4 Understanding of the themes addressed in the CPINs

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

The report cites relevant legal instruments in paragraph 3.2 but does not have academic literature and case law ascertaining the extent to which Zimbabwe protects LGBTI rights pursuant to the Constitution and existing laws. In paragraph 4 the discussion is very elaborate considering the theme of the CPIN. Sub-paragraph 4.3.5 balances a paragraph that would have otherwise been about national leaders and LGBTI without adequately illuminating the general failure of policing authorities to respect human rights, which would then become a better basis for specifying actual rights violations. The Zimbabwe Situation (<https://www.zimbabwesituation.com/news/zrp-one-of-the-worlds-worst-police-forces-survey/>) cited the Zimbabwe Visitor Exit Survey for 2015/16 and the 2017 World Internal Security and Police Index (WISPI) as showing excesses and poor performance by Zimbabwe's Police. Zimbabwe Human Rights Commission reports (including some cited in the Political Opposition Note) also reflect state authorities' failure to comply with the law.

Home Office:

See response above re academic literature and caselaw.

There is no paragraph 4, only section 4. Grateful if the reviewer could clarify.

We are not clear about the reviewer's comment re paragraph 4.3.5 which does not seem to correspond to the content of the text. Does this mean this paragraph or another? Grateful for clarification.

We accept that some context about the police's general weaknesses in regard to respecting human rights may be relevant – to that end we will cross refer to the political opponents CPIN which covers this topic too. However, we wonder if there are more authoritative sources than the article on Zimbabwe situation based, in part, on a survey of visitors leaving Zimbabwe which may not be representative of Zimbabweans' experience of police conduct? While the WISPI looks to be a useful source there is no link to the index itself in the Zimbabwe situation article and we have been unable to locate the 2017 iteration. Is the reviewer able to provide a link or copy to the 2017 index and recommend additional sources on police effectiveness?

2.5 Quality and balance of sources

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

As noted in 2.1 above the sources used are very good in terms of data quality and reliability. Additional areas for strengthening regarding sources of evidence to draw on were also shared to enhance appreciation of context.

3. Review

3.1 Legal Context

Citing of relevant Constitution of Zimbabwe provisions on values and principles (S3), rights of arrested and detained persons (S50) and equality and non-discrimination (S56), even though not fully operationalized through subsidiary legislation and capacitated institutions could be helpful.

The sources cited in the Political Opposition Note sum up Zimbabwe's generalizable inability to fully democratise under and since Mugabe (see ICG 2014, Matyszak 2016, <https://www.voazimbabwe.com/a/zimbabwe-United-nations-sanctions-in-place-Emmerson-mnangagwa/4571385.html>) with the US government for instance retaining sanctions pending full implementation of the constitution

Accepted – a link to the Constitution of Zimbabwe would be useful and will be included in the next version.

See HO response in Political Opposition Note.

3.2 State Treatment

Sub-paragraph 4.2.7 could only be an aberration if detention exceeds 48 hours (See S50:2 of constitution of Zimbabwe which establishes 48hrs as the upper limit)

Accepted – see 3.1. A link to the Constitution of Zimbabwe will provide context and clarity.

3.3 Societal Attitudes and Treatment

While societal conservatism (possibly both negative and positive) is cited as a reason behind LGBTI discrimination, intolerance and stigmatisation other considerations could aid understanding. For instance Mabvurira et al (2012) note that some male-only workplaces (e.g. mining compounds) and prison experiences are behind men having sex with men or women having sex with women (MSM/WSM). In short the Note potentially neglects a proportion (difficult to quantify) of those for whom *sexual orientation is an outcome of negative social experiences*. Based on lessons relating to this proportion society's intolerance flows from the shame of failing to protect the victims and also a response to the violation leading to the 'induced sexual orientation'. An incomplete definition of 'societal conservatism' and 'circumstances leading to sexual orientation' may result in Zimbabweans being unduly seen as unreasonable homophobes.

We are not clear about this recommendation. This is a complex subject, covering a number of issues and it would be helpful to have further explanation as to what the reviewer considers should be covered and how. For example, the CPIN does not define 'societal conservatism', simply cites the source. Does the reviewer suggest that this concept should be defined if so is there a source that may assist?

Please also provide the title of the work by Mabvurira et al and a link to or copy of the publication in order for us to assess its value.

3.4 Civil Society and Support Services, Access to Services and Freedom of Movement

The reference by Hunt et al (2017) to capacity gaps amongst professionals could be included. This may help balance the Note so that the absence of services for this PSG is understood in context of other social groups (e.g. sex workers) and ordinary citizens lacking access to quality services. The peculiarities of LGBTI service and freedom deprivations may become easier to understand.

Accepted. This information could be useful – please provide the title of the work, a link to, or copy of the publication in order for us to assess its value.

4 Information about the Reviewer

I am a 49-year-old Zimbabwean development professional with at least 24 years of development planning and management experience in Zimbabwe and other East and Southern African countries. The work experience includes working for the Government of Zimbabwe (early career, 1991-2), local and international non-governmental organizations. I am involved in offering development research and advisory (consultancy) services in Africa for governments, UN agencies and civil society organizations. Additionally, I teach on a part-time basis at the University of Zimbabwe (Planning School) and at the Midlands State University (Local Government Studies). I have qualifications in Rural and Urban Planning (University of Zimbabwe, Bachelor's and Master's degrees) and Development Studies (Swansea University, PhD). The report is an independent and professional piece of work that should not be read as the official thinking of Development Governance institute on the subject.

