



Unknown people

The vulnerability of sexual and gender identity minorities and The Swedish Migration Board's Country of Origin Information system

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UNKNOWN PEOPLE

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LGBT related issues within the Swedish COI Unit and the Lifos system

Facts about Lifos

Landinformationsenheten—the Swedish Country of Origin Information Unit—has the task of searching for, selecting and publishing information in Lifos, the Migration Board's database for legal and country of origin information [COI]. The Unit consists of one head of the Unit and five COI analysts, five researchers and two administrators. Since 2006 a large part of the material in Lifos is available to the public through the Migration Board's website.¹ Since July 2009, legal standpoints are also published in the database, as a step in developing Lifos into a system that not only provides links, reports and own material, but also offers updated guiding and support information with guidelines for decision-making in asylum cases. There are also rulings from the Migration Court of Appeal and older decisions from the previous Aliens Appeals Board and the Swedish Government.

The material mainly consists of links to external sources, general Human Rights reports, requested specific information from The Ministry for Foreign Affairs, and other documents and reports. There is also some material produced by the Swedish COI Unit, such as compilations of links in response to requests from the asylum units, reports from investigative trips, and the latest type of in-house produced country profiles which represent a new type of compilation of approved country information with basic analyses concerning the countries of greatest interest for the Migration Board.

Background

Neil Grungras is a long-time immigration lawyer and founder of the Organization for Refuge, Asylum and Migration (ORAM International),² a non-profit organization providing legal assistance for refugees fleeing sexual or gender-based violence, a group that until recently did not officially exist. Grungras says that he in his work always received messages from unknown people telling him about their experiences of living under serious threat because of their sexuality or gender expression and their need to get out of the country. After contact they disappeared and were never heard from again, and he wondered why they never appeared among the refugees he met in his daily work. Eventually he realized that they were cut off from this possibility, just like they often were cut off from their families and deprived of the protection and right to take part in society: insofar as they managed to cross the border and seek refuge they kept their reasons secret, not knowing their rights or knowing too well that these would most likely not be respected, and were either dismissed or accepted for other reasons.

In contrast to other vulnerable groups, such as women who flee from men, the LGBT group has remained invisible, according to Grungras. Having interviewed LGBT people waiting for refugee status in Turkey, he concludes that almost no one dares claim their actual reasons, and that the majority consider it necessary to fabricate stories in seeking help, fearing that their sexual orientation or gender identity will end up on record.

1 | www.migrationsverket.se/lifos

2 | www.oraminternational.org

The Swedish Migration Board is not unaware of these circumstances. But since there are no statistics on asylum seekers on the grounds of sexual orientation or gender identity, no one knows who is actually claiming these reasons; who is accepted or rejected, and on what grounds. However, it is known that many asylum seekers generally make these claims at a late stage of the process, a fact that is reaffirmed by the case examples we have had access to from the last three years. Apparent in many of these cases is the general character of the COI used as basis, as well as the secondary role it appears to play in these decisions. Focus often-times lies on the credibility issue, whether the individual story seems plausible, and whether there is ground for the claim at such a late stage.

Today refugees on this ground mostly come from Iran and Iraq, according to Neil Grungras. An increased awareness of homosexuality and gay rights in these countries enable new identities to be formulated, and engender demands from people defining and presenting themselves in a way that is comprehensible from a Western perspective. Grungras also notes that issues concerning gender and sexuality are attractive and accessible to journalists in these areas today, which leads to more accessible COI. He points out that this does not necessarily mean that the situation in countries where fewer LGBT refugees are identified or acknowledged is less urgent. The ways in which people are exposed on these grounds are also not constant, it fluctuates, shifts, and different aspects have a reciprocal impact on the vulnerability of people and their possibilities of being tolerated as deviants. Grungras states that the situation where people risk violence from paramilitary groups cannot be compared to that of being exposed to potential domestic violence as a result of bringing "shame" to the family with the silent approval of the authorities—it is just a fact that the former causes more attention. It is important to realize that increased attention to more aspects of transgressing sexual and gender norms does not mean to invent new vulnerable groups, but acknowledging how change might increase the need of protection, and give legitimacy to those who previously were left to their fate.

The purpose and structure of the study

We have looked into the current COI in the Lifos database that concern the situation of so called LGBT people in the world. We start from an understanding of "LGBT people" as people who see themselves, or are identified by other people, as transgressing norms of sexual or gender "correct" behavior in a heteronormative society.³ The acknowledgement of gender and sexual orientation as grounds for asylum confirms that such aspects play a significant part in the assessment and treatment of people, despite the variation of human attitudes and expression. Expressions that are perceived as disrupting the social order are often exposed to negative attitudes with varying consequences.

We have chosen to look at current information identifying some specific problems related to the task of gathering COI and its content. The first part is mainly based on interviews with the staff at the COI Unit and concerns the conditions and ambitions of its work, criteria for evaluating information and attitudes toward LGBT related issues within the Unit. We then take a look at currently available information in the database in order to examine the actual reporting on LGBT related issues in problem areas, and to highlight tendencies and inconsistencies in accounts of the situation for people who transgress sexual and gender norms. In this part we focus mainly on the reporting from Iran and Iraq, the two countries where persecution of LGBT people is acknowledged by Swedish authorities. This means that there is also enough relevant COI to examine underlying conceptions of sex/gender, gender roles, sexuality and transgressions of norms. The understanding of *LGBT* and *homosexuality* in the COI, the difference between sexual identity and practice, and the understanding of gender related issues as bridging the grounds of sexuality and gender, are the main issues examined.

The study includes a brief look at the Kosovo country profile in order to exemplify how the

3 | For a more elaborate account of the understanding of *LGBT*, see p. 13 in this study.

situation of LGBT people is covered in the new more developed type of COI produced by the Migration Board. Since the situation for LGBT people in the area south of Sahara in Africa is often disregarded despite explicit hostile legislation, we also take a look at how COI is used and interpreted in a rejection decision based on the situation for lesbian women in Uganda.

The authors of this study have no specific knowledge about the concerned cultural areas and do not aim at providing new COI or correcting the current. The purpose is to detect and highlight problem areas in the process of gathering and producing the COI by reviewing examples in the COI at hand, and to demonstrate the importance of actual knowledge of sexuality and gender issues also when dealing with what may appear as simple "facts". We wish to demonstrate how simplified understandings of the meanings of *homosexuality*, *LGBT*, and the grounds sexual orientation and gender, can result in inadequate information and superficial conclusions.

The study is based on the documents currently available in the Lifos database, marked with the subject headings *LGBT*, *homosexuals*, *lesbians*, *bisexuals*, and *transsexuals*. We have also looked through approximately forty asylum cases and rulings that involve the grounds sexual orientation, and conducted about thirty interviews with staff at the COI Unit, selected staff at asylum units, Swedish and international human rights activists, and asylum seekers on the basis of sexual orientation.

The work at the Swedish COI Unit

Five COI analysts and five researchers are responsible for the task of searching, collecting, evaluating, and publishing COI with focus on the main refugee areas. The COI analysts have the main responsibility for assigned and often quite extensive geographical areas. Most analysts have degrees in law or political science and prior experience of asylum handling, having served as administrators or decision-makers. This means that there is experience of the general issues concerning asylum seekers, though the analysts generally lack specific knowledge about their assigned areas

and usually have limited experience of traveling there. The analysts describe their main tasks as keeping themselves up to date on current information about their areas through meetings, and collecting and compiling information for publishing in the Lifos database. In practice this means scanning selected channels such as databases and news services regularly, and keeping in touch with diplomatic missions, expertise in asylum issues, and analysts at other European COI units.

The COI researchers are trained librarians, and experts in information search and cataloguing.⁴ The researchers do most of the "digging" outside the usual channels, generally as a response to inquiries from staff at the Migration Board's asylum units.

In interviews with the staff at the COI Unit, the scarce resources and experience of shortage of time is a recurring theme. This results in limited access to databases and discourages deeper searching and reading outside of the given high-priority areas and basic channels, as well as travel ambitions. One COI analyst compares the conditions to those of the Norwegian Country of Origin Information Center, Landinfo, which with its significantly larger staff with broader academic competence, and often experience of extensive service abroad, has the possibility to "produce its own material instead of compiling that of others." Consequently, Landinfo becomes more independent of the asylum units.

As the COI Unit limits its task to what is regarded as a "neutral" collecting of material, the task of analyzing the information is up to the users. The Unit is careful to point out that the content does not represent the view of the Migration Board or the Swedish COI Unit of what is the correct information, and that the center's task in the gathering process mainly is to sort out what is overtly incorrect or misleading, or less reliable information. But since the accepted documents are so few, and the range of sources so limited, those that are included are easily assigned significant weight.

4 | Four researchers are trained librarians, one is trained in Information and Media Studies.

"Accuracy" and "neutrality" are central concepts in the work of the center. When documents are published without further comments or contextualizing, the focus on "objectivity" is enhanced. As a result, the tasks of and skills in practical searching, and compiling and cataloguing of information might be valued higher than actual COI knowledge. For instance, several at the Unit see the researchers as having the highest competence to make critical assessments of sources, even though they lack specific knowledge about the areas in question and the relevant issues at hand, besides what they might have accumulated through the work of searching and compiling links concerning certain areas. In practice, the researchers often work independently and make assessments of the relevance of acquired information, compile it and may also publish themselves, though this, according to the staff, usually follows upon consulting the COI analyst responsible for the area.

Since analysts and researchers far from always coordinate their work in compiling obtained information, there is no available information about what kind of information there is and what issues are actually covered in the database. Hence it is not possible to give a summarized briefing of the situation of LGBT people in a certain area upon request without working on a specific compilation. The Migration Board is the center's "most important customer", and the work is more or less guided by the requests from its staff. Special requests from the asylum units might motivate further investigation for more detailed information outside the regular channels. Few at the center can recall ever having received or handled questions concerning the situation for LGBT people. Consequently no such information is actively looked for and information on the topic is usually superficial and included in reports of a more general character. Several researchers claim that they still come in contact with LGBT related material on the Internet in their regular work, and do look out for new reports concerning these matters. However, they rarely collect this kind of information for publishing: *"It is something one observes and then puts aside, since it is not in focus; it is something of a non-issue really."*

Sources and documents in the database

January 1 2010 there were almost 6000 documents included in the Lifos database. How many of these that include information with relevance for the situation of LGBT people is impossible to tell, because of the structure of the system.

Documents that are recognized as containing information with relevance to the situation of LGBT people are, in the beginning of 2010, assigned the subject headings *HBT* ("LGBT", 134 documents), *homosexuella* ("homosexuals", 400 documents), *homosexualitet* ("homosexuality", 7 documents), *bisexuella* ("bisexuals", 7 documents), and *transsexuella* ("transsexuals", 8 documents). Many of these are overlapping, which means there are less documents than actual hits. According to the center all such documents should today be marked *HBT* ("LGBT") in order to provide an easy search that does not leave out relevant documents or leaves the task of comparing different search results to the users. As it turns out, such a search will still be incomplete since the subject heading *HBT* was not used before the fall of 2007 and previously published material has not been updated. Besides, the use of subject headings is not necessarily consistent. It is possible to do free-text searches, but only the very few documents actually included in the database can be searched this way. Since the COI Unit does not have the right to publish most external reports in the database, the majority of the documents are only included through links with a very brief presentation from the COI Unit. Since there is no system of updating documents, there is no way to tell which of these links are still valid.⁵

Out of the total hits from the subject headings above, 200 documents are the 2006 and 2007 editions of the human rights reports from the Swedish Ministry for Foreign Affairs. The rest consist mainly of authoritative reports, compilations from foreign COI units, and reports from human rights organizations such as UNHCR, Human Rights Watch, Amnesty International and

5 | It is likely that these types of reports are eventually removed or moved from their initial addresses; we did not check all links but found a lot of the older links to UNHCR documents to be invalid.

The Red Cross. The documents are found through scanning databases such as the European Country of Origin Information Network ecoi.net, and UNHCR's refworld.org, as well as news channels such as BBC, CNN, New York Times and Reuters, usually through subscribed news summaries.

The Swedish Ministry for Foreign Affairs produces yearly country specific reports on the human rights situation in the world. The reports contain a section with the heading "Discrimination on the grounds of sexual orientation and gender identity", but are usually focused on "homosexuals" and the prevalence of sodomy laws. The very general accounts of discrimination and exposure in reports concerning countries with well-known negative attitudes toward transgression of gender and sexual norms, imply that these documents are not intended to serve as a basis in asylum cases. The latest reports concern 2007, since there has been a pause in the production. Lifos also includes documents from Swedish embassies with responses to inquiries about the situation for LGBT people (or more frequently for "homosexuals").

*UK Home Office*⁶ includes information about "lesbian, gay, bisexual and transgender persons" in frequent country reports.⁷ The information consists of listings of sources quoted with a minimum of comments from the Country of Origin Information Service. Information is searched and included with the help of checklists in order to secure that the information is adequate and that the most important aspects are covered. This requires the user to go through, understand and analyze the content, and justifies the use of a wider range of sources. The UK Home Office Country of Origin Information Service is working with support from an independent advisory panel of experts in various relevant fields who actively contribute to the production.⁸

6 | www.homeoffice.gov.uk/rds/country_reports.html

7 | The majority of the people who are seeking asylum on the ground of sexual orientation in Great Britain come from Iran, Iraq, Jamaica, Nigeria, Zimbabwe, Albania, Ghana, Pakistan and The Democratic Republic of Congo [Source: Anisa de Jong, see next footnote]. In Sweden there are no statistics for this category, but the list would differ from that of the UK, according to people at the asylum units and the Lifos staff.

8 | The Advisory Panel on Country Information, www.apci.org.uk. An examining of the coverage of the situation for LGBT people in the

Landinfo, The Norwegian Country of Origin Information Centre,⁹ produces specialized reports on topics of concern, where information from various sources, including media and academic reports is collected, and contribute with their own analyses.

In the Lifos database there are currently two documents serving as *guidelines* when it comes to evaluating the situation for LGBT people: "On persecution on the grounds of homo- or bisexuality" [Lifos 21605], and "On homo- and bisexuals from Iraq" [Lifos 21656]. A guiding decision is published regarding a case with an Iranian man persecuted on the grounds of his sexual orientation [Lifos 18952].

COI regarding the situation of LGBT people is mainly concentrated on information on official legislation. Juridical facts are often central when estimating the prevalence or severity of state persecution. But according to the staff the reason for the dominant focus on this aspect is also that such information is more accessible, "neutral" and hence safer to publish without further investigation, while it takes more effort to find and evaluate other types of information. The info is usually focused on the prevalence of sodomy laws and rarely gives further insights about the ways in which regulations work exclusionary and indirectly discriminatory, how people transgressing norms might face danger as a result of a collective system of regulations, or how legislation is actually applied in different countries.

Considering that asylum seekers more and more often claim exposure to persecution from non-governmental actors, their own family or group, this legal focus is problematic, according to Stig-Åke Pettersson who is part of the international committee of RFSL, the Federation for Lesbian, Gay, Bisexual and Transgender Rights, and work with LGBT refugees. He is frustrated that so little COI is formally recognized while there is a lot of "informal" knowledge available, knowledge that is

Home Office reports made by Anisa de Jong in September 2008 can be found at http://apci.homeoffice.gov.uk/PDF/eleventh_meeting/APCI.11.5%20-%20LGBT.pdf

9 | www.landinfo.no/index.gan?id=113&subid=0

often reported by media and interest groups but is not considered "secure" enough for Lifos and the Migration Board. This is most apparent when it comes to such areas as Afghanistan, where repression of crimes against sexual morality and gender norms according to COI analysts is more severe than for instance in Iran, but for which valid COI is lacking since it is not reported by the most respected human rights organizations.

There is only one document from the international LGBT organization ILGA linked in Lifos, the report "State-Sponsored Homophobia: A World Survey of Laws Prohibiting Same Sex Activity Between Consenting Adults" from May 2009 [Lifos 21094]. This report gives an overview of international legislation targeting LGBT people and has, due to its strict focus on formal juridical aspects, come to serve as an alibi for the "LGBT perspective". Stig-Åke Pettersson points out that the report's accommodation to "accepted country information language" in practice risks causing notorious misconceptions that are decisive in asylum cases. In the report it is for instance custom to describe lack of secure information as actual lack of reports, which in practice has come to be taken as proof that there are no signs of problems, even when there are testimonies and other disregarded information that shows the opposite. This means that lack of accepted reports can lead to the automatic conclusion that strict laws against transgression of gender and sexual norms are outdated and no longer of importance, also when it comes to countries with a closed judiciary, strict repression of human rights activism and no LGBT movement, such as Kuwait. Writing off the importance of legislation due to its alleged inactivity might entail a disregarding of its symbolic value for upholding societal attitudes. Supported by statements from authorities, this implies that the threat against norm transgressors is exaggerated, which in turn easily leads to an underestimation of the vulnerability of LGBT people in the private sphere.

Due to the simple overview, the coverage of legislation with focus on sexual and gender-correct behavior is also incomplete in the ILGA report. In 2008, human rights organizations reported on the approval by Kuwait's National Assembly

in December 2007 of a dress-code law criminalizing people who "imitate the appearance of the opposite sex", as a step in a campaign "to combat the growing phenomenon of gays and transsexuals" in Kuwait.¹⁰ This information testifies to the fact that official juridical acknowledgement of transsexuals, as is the case in Kuwait, hardly means that transgendered people are protected, or that behavior that is seen as transgressing of gender norms is tolerated. The information is also important in showing how focus and tactics are altered in fighting the loosening of pivotal societal norms. The ILGA report is not alone in missing this type of information: the understanding of an "LGBT perspective" is generally simplified to signify a "gay" perspective, concerning mainly men who have sex with other men rather than taking more complicated aspects of gender norm-breaking into account. When sodomy laws do not explicitly include women, same sex sexual activities between women might be reported as "legal", when in fact such relationships cannot be acknowledged by the society. The ILGA report's information on Kuwait once again offers an example of this misinterpretation.¹¹

Country reports from the Swedish organization RFSL are also not included in Lifos.¹² Nevertheless, when calling attention to the high evidence requirements in sodomy cases in Iran in arguing against the risk of state prosecution in a case from 2008 [guiding decision, Lifos 18952], the RFSL country report for Iran suddenly appears as a reference. It seems strange that RFSL would be considered a more reliable source of this type of juridical information, not least considering that it is also covered in the report from the Ministry for Foreign Affairs, from which the rest of the country information referred in this case is taken [Lifos 18314]. It rather seems to show an awareness of the importance of balancing the use of authoritative reports by including LGBT sources, but

10 | Amnesty International: "Love, Hate and the Law: Decriminalizing Homosexuality", July 2008, page 14; www.amnesty.org/en/library/info/POL30/003/2008/en [not included in Lifos], and Human Rights Watch report from March 2008; www.hrw.org/en/news/2008/03/30/kuwait-halt-dress-code-crackdown

11 | "State-Sponsored Homophobia: A World Survey of Laws Prohibiting Same Sex Activity Between Consenting Adults" p. 25.

12 | The RFSL country reports can be found at www.rfsl.se/?p=2517

without actually providing an LGBT perspective.¹³ The only RFSL document in Lifos is an issue of the newsletter "LGBT in the World" with special focus on HIV in Egypt and Kenya [Lifos 18362], despite the organization's vast contacts with world activists and regular trips to important areas.

In the asylum cases we have had access to, the country information mainly consists of reports from The Swedish Ministry for Foreign Affairs. In cases concerning Iran and Iraq, reports from Norwegian Landinfo also appear. The alarming report "They Want Us Exterminated" from Human Rights Watch [Lifos 21287] also plays a role in recent cases concerning Iraq, but as an "indication" rather than evidence that abuse is taking place. Any more cutting information or expert statements are not included in the asylum verdicts that we have read. As a legal representative in LGBT related cases, Stig-Åke Pettersson has rarely experienced that information from sources other than the given ones have been accepted, even though he regularly presents reports of this kind. He claims that this practice is so normalized that these reports are rarely even commented on, and the dismissal of the information rarely motivated. The requirement of "total neutrality" and balance in each single document makes it very difficult to give a realistic view of the situation, according to Stig-Åke Pettersson.

Appraising informal sources

The staff at The Swedish COI Unit confirms that a new report is considered reliable if published by an acknowledged public authority or organization, and if it thoroughly presents its sources as well as an author with a recognized position. They emphasize that this does not mean that infor-

mation from smaller interest groups have less relevance, simply that they undergo a more strict supervision. However, there is a strong skepticism about new and unconventional sources. The COI Unit states that it is important that a text feels "sensible" and that the "language is balanced"; "it should be neutral, matter-of-fact and correct", and "sweeping wording" raises suspicion.

It would seem fair that all sources are required to use a moderate diction, and that the assessment criterions are the same, but this may clash with the basis of the practical works of many interest groups. The address is often adapted to raise the authorities' and media's interest for acute questions, differently than in "neutral" COI. However, this does not imply that the information is less correct. The lack of a distinct sender and an address is a prerequisite for websites that can be regarded as illegal by local authorities. The combination of social and political networking, which comes natural in certain activist circles, does not agree well with the demands of objectivity. A recurrent objection from the staff towards the use of media that specifically treats LGBT related topics (generally with focus on men who have sex with men), is that they are commercial, and that personal ads make an unreliable impression: "if it looks like a mediation agency, it raises suspicion." As is pointed out, one is often exposed to barriers, since subject terms and sites of interest are coded as pornographic by the system, including some of the ordinary gay sites.

A great deal of people at the center find the inaccessibility of information from witnesses and those concerned problematic, as well as the lack of contacts. Journalistic or scientific articles containing interviews with LGBT people are at the present day rarely included, but can be found through for instance UK Home Office who has a different policy. A document such as the Human Rights Watch report "They Want Us Exterminated" is unique in so far as it meets the demands of a credible sender and presents testimonies through direct interviews with LGBT people in areas that have previously been regarded as inaccessible.¹⁴ The

13 | The well known evidence requirements concerns "four just men" as witnesses or confession in court. Further proof that the RFSL report is not used for its particular reliability is the fact that it does not include the full information it gives on necessary evidence in sodomy cases, obviously since this is not included in the Ministry's report: RFSL actually continues to list video recordings as valid evidence in sodomy cases [www.rfsl.se/?p=3508]. Furthermore, there is information in a separate section of the Ministry of Foreign Affairs report stressing that judges in Iran may also rule according to their own knowledge [Lifos 18314, see pp. 26–27].

14 | This report is discussed in the chapter that focuses specifically on Iraq.

same information has been reported from more “unreliable” sources for a long time. But a number of COI analysts indicate that a specifically restrictive attitude is motivated, also when this type of information is mediated by a known organization. Own experiences are simply seen as less “reliable” than secondary information from “objective” observers:

“If you are a homosexual, and you come from Baghdad, and have lost ten of your best friends, or your partner, I think you can be somewhat tendentious, even if you can be correct also. But after all it is their own subjective observations that are made.”

Such a clear divide between “objective” and “subjective” information increases the risk that the content in Lifos is experienced as “secure”. Statements from people employed at the COI Unit, and procedures of collecting information, show that the Lifos database is seen as a structured compilation of observable facts. Expected users are those who have sufficient knowledge within the laws of asylum to come to a right and unambiguous conclusion. An understanding is assumed to first and foremost be juridical interpretation and not COI as such.¹⁵ Since the information is not actively sought-after, or is collected with any certain demands on balance and sufficiency in the collected statements on for example the approach to sexual orientation and gender roles and the situation of LGBT people, users should regard Lifos as one of many available sources for information.

Attitudes toward LGBT related issues

It is clear that issues concerning LGBT people have a slightly “mythological” character for many at the Unit, since they so seldom come in direct contact with them. Those who have worked within the asylum handling quit before the questions were raised in earnest at the Migration Board, and have seldom or never personally been in contact with related cases. Many indicate feelings of the problems being boosted by media and human rights organizations, an understanding that is confirmed by the lack of inquiries from the asylum units, and the invisibility of those who apply on those grounds. There is certain understanding of the known fact that applicants rarely voluntarily use reasons on the grounds of sexual orientation, or wait until later in the asylum process to mention it. Yet, this also establishes doubt:

“Generally, I must say that when you are applying for asylum, you need to be strategic; I don’t think there’s anything wrong with that. You apply on the best grounds, and if I know that this [other problem] is a good enough reason, then why would I share something very personal or private? Because in a country where it may be spread in the Diaspora, or the circle that helps people get here, that this is something that works, that this certain reason can be referred to, then it’s not strange. But why it doesn’t spread so this reason includes people from other countries, where it might also be passable—and by that I mean that you might bring it up when it’s true, but maybe also in a few other cases, where it’s not true, to spice it up a little, a practice that doesn’t just concern these issues—this will remain unsaid.”

The fact that a person’s sexual orientation and gender identity cannot be “verified” leads to the assumption that applicants from countries where the issue is known use it as a “spice” to increase their chances. That someone from a country where these issues are less known would assert sexual orientation as a reason seems less likely:

15 | For a more detailed description of the current approach to COI within Lifos, as well as its limitations, see Helge Flärd: “The Use, Misuse and Non-Use of Country of Origin Information in the Swedish Asylum Process”, Rådgivningsbyrån September 2007, p. 38–39; www.sweref.org/content.aspx?contentID=599

“The problem is that if there’s a Somali who says, ‘Hi, I’m a homosexual’—something nobody’s heard of before—My God, what do we do with them? You probably won’t find anything in Lifos, so you would have to turn to us. And so the [researchers] starts looking online, trying to find something we haven’t seen. And I honestly don’t think she would find something out there. I’ve worked with Somalia for a long time, and I have never seen those words in combination. And so I’d have to ask colleagues in the Western World: ‘Have you heard about this issue?’ Or else simply go to the embassy or local contacts and ask questions. So you wouldn’t make a decision without information, however, this could take a long time. If we go through all these steps it would take a very long time, months at best.”

Considering that “carnal intercourse” or “an act of lust other than heterosexual intercourse” leads to imprisonment according to article 410 in the Somali penal law that is put into practice in the self-governed northern Somalia, as well as possible death penalty, according to the Islamic law of Sharia that is put into practice in the south,¹⁶ the lack of readiness when it comes to information is surprising. Today, RFSL produces specific information in Somali as a result of contact with LGBT people among the refugees. Simultaneously, the recently published country profile for Somalia does not include information about the situation for LGBT people at all, with reference to the fact that there is no knowledge of any demands for this kind of information [Lifos 22041, January 2010]. Fundamental information is linked in the database, through general documents, but as long as there are no specific requests, there is no incentive to look for and publish a more specific COI. Since it takes so long to get a response, it is rarely worth asking the Unit questions in an isolated case, which results in information on occurrences of asylum cases from areas with few applicants never reaching the COI Unit. Since a response from an embassy takes even longer, embassies are not burdened unnecessarily according to the staff—*“and you don’t always get a good answer anyway.”*

Earlier experiences of how new perspectives have changed both juridical prerequisites and focus when collecting COI, can possibly increase the impediment to learn more. A COI analyst recalls from the time when active at a asylum unit how the consciousness of female circumcision being an “overlooked and sensitive subject” resulted in asylum seeking women being asked if their daughters had gone through or risked being exposed to this type of assault, even though this had never been brought up voluntarily. The answer was often that they had no possibility to protect their children from this. Knowledge is necessary in order to be able to ask such questions, and at present day few question the seriousness in such a threat, since these women have not known the possibility of being protected on these grounds. Similarly, there are probably questions to ask people in veritable danger in order for them to qualify as “LGBT people” in need of protection, even if they cannot word the reasons themselves as Swedish law presupposes. The question is where the knowledge should be produced.

Knowledge about LGBT within the COI Unit

Even if the issue of LGBT people’s vulnerability has commenced to be looked at within the Swedish Migration Board, the issue has not been raised within the COI Unit. No education concerning such issues has been accomplished, and none of the employed has experience of discussing the issues, if not by own initiative, for example in preparing for and during investigative trips. Someone points out that the raising of special issues has always relied on the personal commitment of certain individuals, and “disappeared into thin air” when these have left, as was the case when “the notion of gender” was raised by a previously employed. Most think that they acquire certain knowledge just by doing the regular work of going over papers, and are not of the opinion that more is needed as the demand for information is so low, and no more advanced analyses are made.¹⁷ This does not stop

16 | Daniel Ottosson: “State-sponsored Homophobia: A World Survey of Laws Prohibiting Same Sex Activity Between Consenting Adults”, ILGA, May 2009, p. 38–39, Lifos 21094

17 | One of the COI analysts claims never to have come in contact with the issues at all, while three others claim to have confronted them as they are of interest to their areas. The researchers have

several from seeing the importance of “turning the issues over in one’s mind”, not least when they themselves discover discordances in the information they come across. The fact that the issues are not sufficiently represented in the existing COI is something most agree on, as well as the fact that it besides the time it takes to familiarize oneself with them is necessary to have certain knowledge in order to give satisfactory accounts.

The general subject heading *HBT* (LGBT) came to supplement the previous *homosexual* when the frequent use in COI became obvious. The use of the new term is considered liberating by the staff, since “everything fits in one word”. But the simplification implies an apparent danger, as few have a developed idea of the meaning of the concept and in what way it differs from the previous generic term, and in practice still refers mainly to the notion of “homosexual males” (*“You know the terms and all, but what they stand for exactly, I couldn’t say.”*). Neither does anyone at the center have any developed thoughts on how problems concerning sexual orientation and gender identity are connected, nor on how the connection would be of significance in practice, except for when it comes to the situation of lesbian women. There is an experience of knowledge requirements on the society’s part that might be hard to face (*“Maybe I should get an education then, if these things are so important.”*). Some also express astonishment concerning the posed questions on the subject in the interviews; previously they have not had a reason to reflect upon them, but are open to the possibility that there is a need for greater efforts and more knowledge. A greater commitment to the issues concerning gender and sexual orientation requires the questions to be explicitly prioritized, and not expected to be covered automatically in the regular work, as it is today.

A general education is important in order to reflect on issues that at present day are very simplified. It is important also in order to discuss how the reasons for persecution are blended, as well as to loosen the divide between the basis of sexual orientation and gender, and between “LGBT related issues” and other human rights issues. It is also

varied knowledge and interest of the questions, but as is the case with the COI analysts, those focused on the Middle East and Northern Africa have more practical experience.

of importance to stress the fact that the collection of information does not have to be tied to legal principles, and instead should strive to reflect the more complicated reality, from which juridical judgments are derived—and sometimes must be adjusted to.

Investigative trips

The reports from the Migration Board’s investigative trips carry a lot of weight. According to the head of the Unit 3–5 of these trips are made each year, to countries of greater degree of urgency. Coincidentally, the most urgent geographical areas are often inaccessible to the Migration Board, for safety reasons. This includes countries for which sufficient information is lacking when it comes to societal attitudes toward sexuality and people transgressing gender norms.

Today there is the general attitude within the Migration Board that issues concerning the situation of LGBT people should be dealt with during investigative trips. There is no composed policy on how to approach this, and no greater impact can be seen in the reports. Since the subject is seen as peripheral in relation to the main purpose of the trips, the questions posed are very general, unless a specific template is provided from the asylum units or outside actors. Such questions are rarely received even on immediate request from the delegations. The demand to increase the gathering of information is also experienced as problematic and arduous; the questioning requires both the person asking the question and the person answering to have the knowledge and will to do so. When one of the members of the Migration Board’s LGBT network asked to send along some questions at the prospect of a unique trip to Somalia during the spring 2009, the request was denied with the explanation that the schedule was too full, and that it would block out more urgent questions. The responsible COI analyst asserts that they were concerned these types of questions would obstruct the delegation’s work within the interview situations, being in a country where homosexuality and transgenderism is not acknowledged.

“I wouldn’t like to open a meeting with these kinds of questions, I don’t think it would turn out well. For instance, we met with representatives from women’s organizations, and I think maybe we could have asked them some of those questions if we had waited and taken the time to explain. But it’s not exactly an opening question. And if it’s taboo it’s really nothing you can talk about at all.”

The delegations that make the investigative trips are to some extent confronted with the same problems as the human rights organizations that are active in those countries. Some adjustment is experienced as necessary when choosing the interviewees, organizations and authorities, as well as type of questions, for the work to be practicable. It is also claimed that there is a lack of contacts, and that meetings with concerned LGBT people or activists have not taken place. The impression when reading the reports from investigative trips is that the representatives at the embassies have the most to say on these issues. However, the assessments are always very general and often differ, there is no mentioning of personal commitment to or experience of work with these issues or whether they have been in actual contact with LGBT people, and their sources are unknown.

Most investigative trips during recent years have been carried through by the COI analyst previously responsible for the Middle East,¹⁸ and the analysts responsible for Europe and the Former Soviet Union respectively. The latter claims to have actively searched for information on that account during trips, most recently in Kosovo and Kyrgyzstan, but points out that it is very hard to get a hold of contacts, and consequently most often general human rights organizations are asked.¹⁹ RFSL, which cooperates with LGBT organizations in the Former Soviet Union, could be of help here. Activist Anna Kirey from the Kyrgyz LGBT organization Labrys was invited by RFSL to Sweden in 2007 and to Stockholm EuroPride in

2008,²⁰ a contact that can also be found in existing information in Lifos [Lifos 19582, 12499].

The conception that “objective questions” can be asked in order to bring out facts on the situation in countries and on cultures implies a mutual understanding of the problems concerned. It excludes the possibility to communicate on topics that are perceived radically differently by or lacks relevance for the questioned. To call the purpose of investigative trips “fact finding” is misleading, according to Madelaine Seidlitz, lawyer at Swedish Amnesty with long experience of studying the COI that is used in Swedish asylum cases. Just bringing up gender issues from a critical perspective requires that the compilation of the delegation as well as the roles of the participants are thought-out beforehand, she says, as well as various openings to the questions, in order to be able to ask attendant questions. This is especially important when one needs to compensate communicative difficulties. Since interpreters are not always included in the delegations, the people at hand are often made use of for this purpose, sometimes individuals representing authorities. Madelaine Seidlitz also emphasizes the importance of taking in consideration the power relationships, the reaction to a Swedish authority examination, and the interviewee’s motives and loyalties in the response evaluation.

According to Madelaine Seidlitz the idea of separating “subjective” statements from “objective” is a strange way to compensate for the lack of a real analysis of the situation. The collection of COI should be founded on individual analyses of every interviewed person and each source, where an examination of “subjectivity” is as relevant in an encounter with an authority or head of an organization, as with a private person. Everyone has their flaws, competences and motives to express themselves in separate issues.

18 | The COI analyst in question has for instance partaken in trips to Iran, Baghdad and the investigative trip concerning honor related violence to Lebanon, Syria and the KRG area in northern Iraq that is mentioned in this study.

19 | See the example on Kosovo on p. 16.

20 | Anna Kirey visiting RFSL in Stockholm, www.rfsl.se/?p=3815&aid=10318, www2.amnesty.se/ap.nsf/webbportage/oA8C6EA631ECBE02C12572B002807E4?opendocument

Access limited information in Lifos

Despite the fact that the Lifos information is public since 2006, approximately 20 percent of the internal database has limited access. The titles can be searched by the public, but the documents are only accessible to personnel within the Migration Board with certain qualifications. However, as an outsider, one can apply specifically to take part of certain content. The limited access is explained by copyright, caution when it comes to non-stated personal data, as well as international secrecy with consideration for political relations concerning controversial wording and expressed opinions about other countries. The secrecy has given activists reason to suspect that substantial information is being withheld from the public, which would be in conflict with the transparency that has been presumed by rule of law since the database was made public. Such suspicions are completely unfounded, according to the head of the COI Unit, as all invoked information must be presented to all parties in a case, and top-secret documents are shown as they are invoked, even if they under such circumstances undergo anonymization. However, the assessment does not take in regard that the invoking of the information first and foremost can be done by the Migration Board, and not the searcher, as outside persons have more limited knowledge of what information is available. Documents with limited access from the Migration Board with reflections from their employed might have a certain significance in the strengthening of a common understanding of the situation in the countries in question, even if the documents are not explicitly invoked in case investigations.

The rules of secrecy mean that many reports from the investigative trips of the Migration Board have limited access, since the sources have not been anonymized. LGBT related issues are mentioned in access-limited reports from travels to Turkey (2004), Azerbaijan (2004), Armenia and Georgia (2004), Eritrea (2005), Iran (2005), and Kyrgyzstan (2009). Since the topic in a majority of the reports is only touched upon shallowly and briefly, the restraint of the reports is not likely

to have any consequences for cases concerning these countries on the basis of sexual orientation or gender identity. The Iran report [Lifos 13226] might be an exception. As this report articulates somewhat of an analysis and recommendations on how the situation for “homosexuals” in Iran should be evaluated, there are reasons to believe that it has certain effects on the attitudes to the issue of the person taking part of it.²¹

The understanding of LGBT and gender issues in COI

The concept LGBT—lesbian, gay, bi, trans—gender—concerns identities and practices outside of a heterosexual two-gender norm that is generally regarded as universal, hence relevant when talking about gender and sexual norm transgressions all over the world. We would suggest that the abbreviation and umbrella term as such has a relevance that goes beyond the individual terms in talking about norm transgression on the grounds of gender and sexual orientation. In order to understand the concept we need to further examine the relationship between these two grounds. Without going into how this understanding should be reflected in juridical practice, it can be established that the clear-cut separation between the grounds of gender and sexual orientation is presupposed, yet rather confused in practice.

RFSL states in an examination of human rights reports from the Swedish Ministry of Foreign Affairs from 2007 that “lesbians” are specifically mentioned in 7,6 percent of the texts concerning the situation of LGBT people, and that it is unclear if or when women are included in the other references to “LGBT people” or “homosexuals”.²² The vulnerability of women having sex with women, or in other ways being perceived as transgressing gender norms, might be assessed based on the fact that they are “women” or “LGBT people”, with different consequences for the risk evalua-

21 | The report is discussed on pp. 22–23

22 | RFSL 2009: “Little is known on the situation of homosexuals today: A study of country of origin reports from the Ministry of Foreign Affairs” [“De homosexuellas situation är idag mycket lite känd: En granskning av UD:s landrapporter”, in Swedish], p. 14.

tion. As a consequence of a view of women's sexuality as defined in relation to men, there is a lack of definitions of female same-sex desire. This results in female same-sex sexuality becoming "invisible" in society, which is sometimes seen as "protective" of these relations. On the other hand, behavior transgressing gender norms in women might be unacceptable in cultures that have a strong patriarchal structure. For men the opposite is often expected to apply, with conflicting consequences: their visibility implies greater risk of exposure, while they enjoy the protection of their ascribed natural sexual agency. In order to understand the complexities of this situation a more sophisticated analysis of gendered difference needs to be acknowledged, rather than narrowing the question down to biological sex. If we understand *gender related violence* as an aim to maintain the hegemony of masculine superiority in society, it is something that affects both men and women, and constitutes a threat to both insofar as their behavior can be perceived as a threat to such a structure.

The common understanding of *gender related issues* as specifically concerning discrimination on the basis of biological sex also implies that transgender related issues are strictly limited in the COI. Despite the fact that the term *transgender* includes a number of ways to approach biological sex and gender that go beyond the expectations of the norm, it is in the COI generally taken to concern exclusively *transsexuals*. Consequently the information concentrates on the possibilities to undergo sex reassignment treatment and to be acknowledged a new juridical gender identity. *Transgender* actually embraces different experiences of *gender identity* that do not allow for a uniform understanding of the relation of gender to the body. Individuals may have the feeling they are "born in the wrong body", but this does not mean the same to all people. Your inability to live up to, or refusal of, the expectations on behavior and appearance as a biological male, does not necessarily mean you "actually" are a woman. Neither is there a contradiction in experiencing yourself as a woman, yet having no wish to change your body, except seen from the rules of society.

Taking *transgender issues* into account means understanding how rigid the rules for gender

correct behavior in a society are, and see what possibilities people have to live free from harassment when they deviate from the society's expectations. That said, it is not at all clear that transgender issues can be disentangled from those concerning same-sex desire, since these are connected in their aspect of transgressing gender norms. Sexual practice can be perceived as gender transgression because you take the "wrong role" according to society's sexual game rules, because you desire the "wrong" gender expression, or because relationships with people of a different biological sex simply is a prerequisite in order to be accepted as a man or woman. Defying these norms means challenging the self-explanatory relationship between the biological sexes and their "natural" connection to given interdependent roles. Understanding *LGBT* as the simple compound of identities on completely separate bases is therefore an incorrect simplification.

Homosexuality and *beterosexuality* are in the Western world used as unifying terms for all expressions of desire with the biological sex of the partners as starting point. A common and confusing custom to call same-sex sexual acts "homosexual acts"²³ wrongly fortifies the idea of a necessary connection between identity and practice, or the reduction of identity to practice. This means attributing identity to an act which might be expression of different desires, as well as reducing the identity of being homosexual to exclusively sexual conduct, at the same time as it leaves the matter open concerning exactly what acts that are considered "homosexual". Same-sex sexual acts, without any presumptions as far as how people identify themselves, are today often denominated *MSM* for men having sex with men, and (less frequently) *WSW* for women having sex with women.

Bisexuality is sometimes included when talking about sexual orientations, but is in practice most often reduced to "homosexuality". The *B* in *LGBT* is in reality a guarantee that sexual orientation never can be simplified to cover simple and static identities. Both the terms *homosexuality* and *beterosexuality* easily presume that people have one

23 | This term is commonly used in COI, but can also be found in for example ILGA's report "State-sponsored Homophobia", and generally in LGBT/gay media.

partner relationships and share an identical desire. The existence of bisexuality testifies to the fact that desire does not necessarily originate from biological sex, and that sexual orientation is not invariable.

A comprehension of the meaning of *LGBT* thus concerns the understanding that there is a diversity of desires and conceptions of gender, and that people inevitably violate prevailing gender and sexual norms in every society. What that means for people's experience of their identities differs between cultures and conditions in separate societal structures. *LGBT* first of all narrows down how people are discerned from the societal norm often called the *heteronorm*. A heteronormative structure does not necessarily assume absolute demands to only have sex with people of the opposite sex; when sexuality as such is not seen as central in the forming of an identity, *heterosexuality* can be a foreign term. The heteronorm is ultimately about confirming the separation of two distinct sexes as the basis for two distinct gender roles. While known identity constructions such as *homosexual*, *bisexual* and *transsexual* each can be accommodated to such a structure, the inclusive term *LGBT* is in conflict with the possibility of definitive definitions of *man* and *woman*, of a given meaning of sexuality and other behaviors.

The comprehension of *LGBT* in an asylum context demands a basic understanding that juridical terms can be excluding and implies an underlying stable identity. This concerns not least seemingly "neutral" classifying principles such as *sexual orientation* and *gender identity*. Worded identities are always limited since they can never be universally accepted, and always will ascribe people feelings and characteristics they do not necessarily relate to themselves. Rights on the basis of sexual orientation and gender identity must also be applicable for those who understand sexual orientation and gender identity as fluid, or as less central in the shaping of an identity.

Speaking of "attitudes towards LGBT people" can in other words not be reduced to taking defined categories into account. Rather, is about attitudes toward those who are perceived as chal-

lenging the demands on men and women in society in order to uphold its gendered power structure. To be accepted in a structure is sometimes called *passing*.

The problem using the acronym *LGBT* is thus that it requires knowledge and consideration to more complex problems. A representative for the newly started LGBT network at the Migration Board points out that it is important *not* to use the term for instance when transgender people's situation is not actually included, and that the use of "homo- and bisexuals" when talking about people's sexual practices is to prefer to the risk of making transgender issues even more invisible. However, this does not justify simplified definitions of "homo- and bisexuals". During the fall of 2009, a general legal standpoint concerning the group "homo- and bisexuals" was published, as well as one specifically for "homo- and bisexuals in Iraq" [Lifos 21605, 21656]. By this definition of the group it is clear that the situation of transgender people has not been taken in consideration. But it also signals that transgender people are not included in the threat, or would be on different grounds. The specific focus on "homo- and bisexuals" signals that rules that concern sexual moral can be distinguished from gender issues, and that sexual practice is the only basis for discrimination and possible persecution, an assessment that can clearly be questioned in the example of Iraq.²⁴

We hope that the following chapters, which discuss examples found in the COI, will shed light on possible consequences of these kinds of simplifications.

24 | See the continued discussion in the section on Iraq starting on p. 35.

COUNTRY PROFILE: KOSOVO

The country profiles claim to present a compiled and more detailed image of the situation in each country, and are compiled by the COI Unit in cooperation with experts within the Migration Board. These profiles could in the long run become a complement to the weight-carrying yearly human rights reports from the Ministry of Foreign Affairs, and give clearer outlines that are relevant for asylum cases. The first country profile that was published in May 2009 deals with Kosovo [Lifos 20864]. Since June 15 2008 Kosovo is one of ten countries in the world that have a constitutional ban on discrimination on the basis of sexual orientation²⁵ and is not one of the countries where LGBT people are considered particularly vulnerable today. However, in the country profile on Kosovo it is noted that the national efforts are not sufficient to protect people with norm transgressing behavior in a society where homosexuality is considered a disease. The section “LGBT people” [p. 21–22] is entirely based on the statement from a “representative from an NGO in Pristina” obtained during an investigative trip and has a fairly positive tone. It is pointed out that “the climate during the past year has become more permissive”; “since the previous fall it has become possible to be open in a whole new way”, gay clubs have started to appear in Pristina and a national campaign against homophobia has been launched. It is emphasized that men are the most exposed, as “male homosexuality appears to be more provocative” than female. This marks a distance to the issue of increased violence towards women, which in the section on women’s situation is stated being “one of the most acute and worrying human rights problems in Kosovo.”

One could expect the person chosen to give the account of the situation of LGBT people to be a representative of, or at least a person in contact with the organized LGBT movement in the country. However, the interviewee represents a women’s organization that has no particular commitment to LGBT related issues. The COI

analyst confirms that the delegation was recommended to contact the LGBT organization Elysium for more detailed information, but says there was no room for this in the planning.

After the publication of the country profile, an additional article has been linked in the database on the situation of LGBT people, where *Balkan Insight* interviews a representative from Elysium [Lifos 21515].²⁶ In this article the lack of government protection of the organization, and the inefficiency of the official protection against violence is accounted for. It is claimed that the only smaller gatherings that occur in Pristina are arranged by the organization itself, as the only time members dare to be open with their orientation in a hostile society. In contrast to the profile’s assessment, the LGBT activist claims that norm breaking women are the most exposed, since women’s general subordination is already consolidated by the mainstream heterosexual structure. Where homosexual males can experience alleviations in the shape of temporary free zones beyond repression, women cannot enjoy the same possibilities. Adding the article to Lifos shows ambition to balance reports, but also that the country profile is to be regarded as one of four available sources.²⁷ But the weight of the country profiles implies that the information might be valued higher than other, perhaps more well-founded, information.

As far as the situation for transgender people goes, the country profile comments that “the scene is well hidden away” and that sex reassignment surgery is not put to effect, even though this right is statutory. The COI analyst says that he got the impression that transgender people are excluded from the “LGBT” community in Kosovo, which mainly consists of gay people who in their aspiration to become tolerated by the majority society avoids being associated with these deviants: “It is considered a little sick if you know what I mean, I’m not really sure why.”

26 | Shega A'Mula: “The Secret Life of Kosovo’s Gay Community”, Balkan Investigative Reporting Network, BIRN; Balkan Insight September 23 2009

27 | All in all there are four documents concerning the situation of LGBT people in Kosovo in Lifos, in addition to the mentioned public reports also from the US Department of State [Lifos 20352] and UNHCR [Lifos 21771].

25 | ILGA 2009: “State-sponsored Homophobia”, p. 51, Lifos 21094.

This exclusion is not mentioned in the profile, as it falls outside the scope of the main aim to depict “the majority society’s treatment of the minority.” But the example shows clearly how “LGBT people” cannot automatically be considered a homogenous group in relation to a majority society. The needs of non-heterosexual women are also not automatically included in the work of women’s organizations. An organization that pursues a fight for the rights of non-heterosexuals through distancing itself from transgender issues cannot be acknowledged as a LGBT organization. Transgender people might not have the type of “scene” that offers protection. Without the envelopment of a community, groups risk not being included in the discrimination protection intended for “homosexuals”.

COI IN AN ASYLUM CASE: UGANDA

In an asylum case dated August 2009 a 19-year-old Ugandan woman calls for reconsideration because of permanent execution impediments. She claims that she during the time she has resided in Sweden has discovered that she has “feelings for other girls and no longer has feelings for boys.” As a matter of fact, she has started a relationship, something she hides from the Ugandan family she is living with in Sweden, as they have expressed highly condemning opinions on homosexuals. She claims they represent the general attitude towards homosexuality in Uganda, and that she is afraid of what would happen to her if she returned, as she cannot imagine renouncing her need to have relationships with women. She is a member of RFSL, which she visits but is not actively engaged in for fear that she would be revealed by fellow-countrymen. However, she does spend time with other non-heterosexuals and openly carries a wristband she has been given from the organization. The Migration Board turns down the motion with reference to COI as well as the specific situation of the applicant.

The COI referred to by the Migration Board consists of Uganda reports from RFSL from July 8 2005 and November 5 2007, as well as the Ministry of Foreign Affairs’ human rights report for Uganda

from July 2007.²⁸ This particular report is given some praise in a study by RFSL 2009, “as an example of a report where the situation for LGBT people is illustrated in a sufficiently detailed manner.”²⁹ The report confirms that “homosexuality and homosexual acts” can be punished with as much as ten years in prison, as the result of legislation that first of all concerns men, but that according to a proposed bill soon may come to explicitly include women. It states that the authorities do not offer LGBT people any protection or allows information on sexual matters or HIV preventive work, that freedom of speech has been additionally restricted with reference to moral, and that individuals have been outed as homosexuals and published with their names in Ugandan press. It also points out that the Ugandan parliament in July 2005 with an overwhelming majority voted through a law, giving the government the right to forbid same-sex marriage. During the fall this was followed by a campaign from separate LGBT organizations, which resulted in intensified reactions and agitation from the government as well as religious leaders and the media, with promises of proceedings. All in all the information is varied, but in the verdict the conclusion in the report from the Ministry of Foreign Affairs is given a distinctive meaning: “Despite the opinion that there is a strong Ugandan opinion against homosexuality, there is in Uganda different organizations who actively and openly dare to debate LGBT people’s right to human rights as well as pursue the issue in court.” [Human rights report from The Ministry of Foreign Affairs, p. 17–18] Completed with additional information from the RFSL country reports on the occurrence of “LGBT activism”, one is given the impression that there is an “open debate climate” in Uganda, where LGBT people are not content with living discreetly, but demand their place in the public.

Given shown COI, the Migration Board establishes that there is no general danger of persecu-

28 | A report from the US Department of State from February 2009 [not included in Lifos] is only quoted confirming that women have not been sentenced for the felony of sodomy in Uganda.

29 | RFSL 2009: “*Little is known on the situation of homosexuals today: A study of country of origin reports from the Ministry of Foreign Affairs*” [in Swedish], p. 11

tion for homosexuals in Uganda, and that sexual acts between women do not appear to be of the government's interest. This combined with the fact that the woman "had not lived openly" with her sexual orientation, that is, had kept it from her host family, "means, according to the Migration Board, that there is no risk for exposure and therefore persecution in the homeland. In this regard nothing has emerged that indicates that you would be of specific interest to the Ugandan authorities upon returning." [p. 8]

There are reasons to examine some aspects of the basis of the verdict, concerning interpretation of the COI, as well as reasoning on "openness" and "risk". A closer look on recently updated information does not give the same image of the climate for LGBT people and women in particular.

The development in Uganda should be examined in the light of how legislation and development in controversial issues in one country have repercussions for other countries with remaining colonial sodomy laws in the area south of Sahara. Human Rights Watch have shown how success for certain progressive movements has sent waves of activist forces over the continent, but also led to strong backlashes from the strong Christian conservatives, who are effectively stirring up a fear for "a Western threat towards the African lifestyle." In 1996 South Africa passed the world's first constitution containing the right to protection against discrimination on the basis of sexual orientation. After a long series of won lawsuits in South Africa, the Constitutional court 2005 established that the right to marriage—a union traditionally worded without the specific mentioning of "man" and "woman" in many countries in the area—also included same-sex couples. The first reaction to the decision came from Nigeria, which, to accentuate its dissociation from South Africa's decision, forbid every type of upholding of rights or support of LGBT people; suddenly, just holding hands could result in as much as five years of prison.³⁰

30 | Human Rights Watch; "Together, Apart: Organizing around Sexual Orientation and Gender Identity Worldwide", June 2009, p. 8–9 [not included in Lifos]; www.hrw.org/en/reports/2009/06/10/together-apart

In this surge, that same year, same-sex marriages were explicitly prohibited by the Ugandan parliament. Heated statements from leading politicians who supported tougher enforcement from the police, and calls for violence in the media, as well as promises on future reinforcements on the law against deviance from gender norm, made the situation very dangerous for people perceived as deviants. Active organization was the only option for people who were now exposed to acute threats, irrespective of the consequences.

Kasha N Jacqueline, activist within the network Sexual Minorities Uganda,³¹ claims that the "organization" that exists among LGBT people in her home country, is a result of desperation rather than possibility. It is simply too dangerous to be alone. Without the support of family, government or nearby surroundings, the only protection against being arrested, thrown off a bus or assaulted on the street is to move in group—at least for those lacking the possibility to pass in everyday life. That is why, according to Jacqueline, the network consists of mainly women and transgender people, while men having sex with men to a greater extent are specifically involved in HIV activism. Through existing laws against "scandalous behavior" the police dissolve every attempt to gatherings by people who show a norm transgressing behavior or appearance, Jacqueline testifies. Arrests and prosecution for "recruiting of homosexuals" already take place today, despite this not being stated as a crime in the Ugandan penal code.³²

Kapya Kaoma, Anglican priest from Zambia, active in the American think tank Political Research Associates, belongs to those who assert that the force behind Christian right movements wanting to protect "family values", as well as the central role people expressing gender deviating behavior play in these ideological projects, is underestimated in countries like Uganda, Nigeria, and

31 | Sexual Minorities Uganda, SMUG; www.sexualminoritiesuganda.org

32 | The fact is that reports already exist in Lifos on arrests and torture of SMUG activists from Human Rights Watch; "Uganda Torture Threat for HIV/AIDS Activists", July 30 2008, Lifos 19224, and from Behind the Mask in a report from UK Home Office in February 2009, Lifos 20230 [www.mask.org.za/article.php?cat=uganda&id=1958]

Kenya.³³ In March 2009, right-wing conservative Family Life Network organized an extensive campaign in Kampala, which was followed by national anti-gay marches in the cities and the countryside.³⁴ It was declared that homosexuality involves a developed disorder through experience and environmental influences, which means that the young of the society are the most vulnerable and are at risk of being turned away from family values [Kaoma p. 29–30]. Alegations of sponsorship from the West and claims that young people were given money by Ugandan gay activists “to recruit their colleagues into lesbianism” served to fuel the hate against homosexuals. [Kaoma, p 14] The threat does not only consist in the spreading of “immoral sexual acts” as such. Showing tolerance to the discussion on gender issues and rights that would protect LGBT people from persecution and sexual violence as a “cure”, would signal a capitulation to further demands on “human rights” in opposition to conservative Christian starting points. At stake is the fundamental understanding of sexuality as an act with reproductive functions, control of the female body, and the preserving of separate roles according to sex.

In the new bill that was presented during the spring of 2009, and started being passed around as a final suggestion in September that same year, sexual transgressions of both men and women were included. The aim to ban everything that might be seen as “promoting of homosexuality” is made clear, as well as the demand on informing when knowing of someone’s homosexuality. If the bill is carried through, it means the end of the possibility to even the least resistance from LGBT people in Uganda, and a direct danger for everyone who shows signs of deviance or who support others, in the society as well as in other human rights organizations in Uganda, according to Kasha N Jacqueline. The proposed bill’s demand on death

penalty for “recidivists” is effective in emphasizing the seriousness in challenging Christian values.

The bill was made public only a month after the verdict of this particular asylum case, but in the referred COI there is no reference to that present course of events. In the preliminary work for the Alien Act of 2005, where sexual orientation was added as a specific ground for persecution, it is pointed out that a person who consciously or unconsciously violates discriminating laws, social norms or religious regulations can be perceived as oppositional, and therefore exposed to persecution [prop. 2005/06:6 p. 24]. This is obviously the case for a norm violating woman in Uganda whose every day “practice” of her sexual orientation potentially can be perceived as criminal. In an assessment on whether there is such a risk it would be reasonable to estimate a person’s possibility to upon a return live as she would have lived in Sweden. In the specific case with the Ugandan woman there is however only an interest in the risk of potential spreading of rumors in her homeland, if the applicant’s orientation is revealed previous to her arrival. In other words, the crucial point is her possible openness towards her host family. The underlying assumption is that she is expected to have the same possibility to keep her orientation secret in Uganda as she has in Sweden. Such an assumption enforces the idea that a realistic assessment of actual future risks is not relevant in the assessment. The Migration Board also comments in their verdict that the actual “risk taking” with being “open” despite the family’s alleged austerity, and the possibility of being outed by fellow-countrymen, opens up to the question on whether she is trustworthy, even if it is mentioned that this fact is overlooked. “Openness” can in this case be interpreted as an expression of a conscious choice. The importance of “showing” your orientation, being “open” and the requirements of “living a double life” of the kind that is familiar for many LGBT people in Sweden as well, is at the same time very unknown territory for the decision-makers. The relative freedom where repression is isolated to one part of the city and outside the norm of the Swedish society is hardly comparable to the reversed situation in returning to Uganda.

33 | Political Research Associates have published a recent report on the significance of conservative Christian campaigns for “family values” in Africa, based on interviews with religious representatives. Kapya Kaoma; “Globalizing the Culture Wars: US Conservatives, African Churches & Homophobia”, Political Research Associates 2009; www.publiceye.org/publications/globalizing-the-culture-wars

34 | According to Kaoma a known spokesperson for the American ex-gay movement, as well as the Holocaust revisionist Scott Lively, author of *The Pink Swastika*, who claims homosexuals were behind the Nazis, represented during the conference that opened the campaign.

IDENTITY AND PRACTICE:

The understanding of "homosexuality" in Iran

Orientation or lifestyle

Iran is the country that has received most attention for the longest period of time in Sweden when it comes to sexual orientation as a ground for asylum. The fact that Sharia law is applied, inadequate rule of law, and frequent sentences to corporal punishment and even executions for crimes where "sodomy" has been among the counts, have motivated asylum in cases where the applicants have been open with their sexual orientation after entering Sweden. This "openness" has more than once been emphasized through announcements in Swedish newspaper articles featuring these cases, and making sexual orientation (i.e. homosexuality) public has been regarded as hazardous in the same way it would be to openly criticize the government. This implies that sexual orientation can be withheld or hidden, a fact that is generally established in the early reporting on the situation for "homosexuals". In 2006 *sexual orientation* was introduced as a grounds for asylum on its own terms in Sweden, in order to highlight reasons that have shown to be easily overlooked. Nevertheless, Nordic COI has continued to emphasize the possibilities of passing for "homosexuals", and even ways in which "homosexuals" might in fact benefit from society's strict expectations of gender-appropriate behavior. The expected image of the Iranian homosexual is that of a man who naturally conforms to the basic requirements concerning gender appearance and behavior, and hence might benefit from the freedom of passing as a man.

The ideas about what it means to be a "homosexual", or to deviate from cultural gender norms in other ways, have gone through great transformations in the West. While LGBT identities have been shaped, there has also been an increasing awareness of the diversity of significations of sexuality and gender roles in the world. Janet Afary, Iranian Professor of History and Women's Studies, notes that cultural attitudes toward transgressions from sexual and gender norms are obviously confusing to Westerners and that this has led to inaccurate interpretations of the situation. In giving example of these types of simplifications due to inadequate cultural understanding, she quotes a report from the Swedish embassy in Teheran from 1996:

"The situation for homosexuals is that the risk for legal proceedings or harassment is utterly minimal as long as a homosexual relationship is handled in a discreet manner ... The police and justice administration do not take active measures to investigate into the existence of homosexuality, nor do they actively hunt homosexuals. All in all, the situation in practice in Iran is radically different from the impression conveyed by the shari'a-inspired Penal Code ... the situation in Iran is relatively tolerant, since homosexuality is by no means unusual in Iran. Certain 'health clubs' in Teheran are e.g. known to be frequented by homosexuals. Furthermore, it is by no means unusual to meet openly homosexual persons under otherwise heterosexual, private circumstances like social events. Judging by appearance, diplomats with a homosexual orientation posted in Iran have

not had any problems to get in touch with 'partners' in Iran. If anything, the situation is rather that homosexuals can conceal their orientation more easily in Iran than e.g. in Sweden, as physical contact between men—embracing, cheek-kissing, handholding—is culturally accepted behaviour. [So, to be punished,] a homosexual couple must behave with great indiscretion, almost provocatively, in a public place.³⁵

Assessing the situation for LGBT people on the basis of experiences by Western diplomats seeking partners and mingling at social events might seem strange today. But the analysis does not differ from that of today's embassy reports, where there are no indications of closer contacts in or outside of Teheran. The manifested distance between the reporting and the reported contributes to the almost mythical image of the "homosexual" and normalizes the idea of information without involvement as "neutral" and more reliable.

The interpretive prerogative of Swedish embassy staff when it comes to assessment of what it is like to be and how one is perceived as a homosexual in Iran has been criticized by among others the former Swedish parliament member Tasso Stafilidis. In hope of getting a better understanding of the stark contrast between the reports from the Swedish Ministry of Foreign Affairs and testimonies from Iranian asylum seekers (on the grounds of sexual orientation) he did his own investigative trip to the country along with his fellow parliament member Yvonne Ruwaida in 2002. In order to come in contact with concerned groups and individuals the team chose to avoid all contact with the authorities, a fact that resulted in it being of little interest for the Migration Board. Stafilidis agrees with Afary in concluding that simplified interpretations from culturally different standpoints under exceptionally privileged circumstances have served to belittle the issues many non-heterosexuals and transgressors of gender norms encounter in their everyday lives. According to his experience, the freedom from state control that was experienced by European officials is seen as proof of a liberal attitude from the authorities

unfamiliar for many of the local people they met in Teheran. Hence it is of importance to understand what aspects are taken into account in reporting of the situation of "homosexuals", and who is in fact included in the concept in the COI.

Recurring information in the Ministry's Iran reports, which is quoted in COI in the rulings from the Migration Board and the Migration Court of Appeal, establish that "homosexuality" is not illegal in Iran, that the authorities do not actively persecute "homosexuals", and that same-sex sexual relations are frequently occurring in the country [Lifos 18309, Lifos 14246, Lifos 18476, Lifos 18824]. As easy as it is to interpret this "passivity" as silent permission, it is important to consider that the first challenge of the norm might consist in defining it and making it visible. A prohibition of homosexuality as such is recognizing its possibility.³⁶ Sexual acts are simply not seen as basis of an identity, and norm-breaking sexual behavior is regarded as an expression of lacking morality rather than of sexual "orientation". Negative attitudes towards "homosexuals" in Iran are hence explained by their violation of the "codes of conduct" that include all Iranians, and aim at restraining all overt expression of sexuality outside of the framework of reproduction and enforcement of a given gender order. The "exercise" of homosexuality as an expression of a reprehensible lifestyle motivates keeping a low profile as a "homosexual", at least according to (presumably non-homosexual) Iranians consulted on the issue by the embassy: "A spread impression among Iranians is that most homosexuals choose to live relatively discretely and withdrawn in order to avoid exposing themselves to physical or legal danger." [The Ministry for Foreign Affairs, Lifos 18476]

The strategy of punishing provocative expres-

35 | Janet Afary: *Sexual Politics in Iran*, Cambridge University Press 2009, pp 289–290. Swedish embassy reports to the Migration Board were classified until 2006, so the original document is not available.

36 | This was well illustrated by a statement given by president Ahmadinejad before an audience at Columbia University in 2007: "In Iran, we don't have homosexuals, like in your country ... In Iran, we do not have this phenomenon. I don't know who's told you that we have it." The statement demonstrates a position that rejects sexual expression as basis for identity. Transcript from *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2007/09/24/AR2007092401042.html>

sions and identity statements, and not aberrant feelings or experience of self as such, is also reasonable from a view of sexuality as an unruly force to be kept in check, rather than an urge in accordance with different "orientations". This means that accommodation to societal rules is a moral question and the expected "natural" state for men and women sexually "neutral", therefore overt sexual expressions of any kind are forbidden. The idea that "homosexuality" is something that the individual can voluntarily choose to expose is based on the idea that this is true of sexuality in general: if heterosexuality is merely an expression of accommodation to the requirements for earning the status of being a man or a woman, homosexuality exists only as acts of sexual excess and expression of moral weakness.

As much as this view differs from a modern Western gay movement's claim that gender is distinct from sexuality, this movement has also achieved equal rights through the argument that homosexuals are "ordinary men and women" with the same needs, values and objectives as heterosexuals. That is, on the terms of adopting fundamental heterosexual ideals such as couplehood, marriage and parenthood. A relationship structure based on a sharp gender dichotomy of the "feminine" as "passive" and "masculine" as "active" force is still given and the masculine norm reaffirmed in the process of loosening the ties to the biological sexes: acknowledging the "masculine-active" capacity in women has certainly not enhanced the value of the feminine. Acknowledgement of women's rights, along with a simultaneous revaluation of femininity, appreciating it as an active force in its own right, has hardly been achieved in any culture.

The Western idea that a certain percentage of the population is "naturally" homosexual, regardless of culture, might lead to the conclusion that things must be in order when there are no explicit reports attesting to the contrary. The problems then seem to appear together with the import of Western identities that have no "natural" place in that culture. The logic of this reasoning is often contradictory in lack of a more elaborate, comprehensive explanatory model.

One of the analysts at the COI Unit claims that

a lesser degree of exposure to Western culture explains the lack of COI concerning the situation of LGBT people in Afghanistan, a country where, like in Iran, Sharia law is applied:

"Of course there must be just as many homosexuals there [in Afghanistan] as here [in Sweden]. But the question is if they are even aware of it? In that culture, which in some respects is more repressive than that of Iran, I don't think they would even understand that question. If one was to ask [Afghan] politicians how many homosexuals they have, or if they have a gay club in Kabul, they would probably just stare indifferently and not understand the question, I think. In Teheran the response would be totally different."

This "unawareness" of challenging new identities is seen as a protection for LGBT people. Still, "tolerance" for "homosexuality" is expected in modern urban areas, and the danger is associated with traditional life:

"To be a homosexual in Teheran is relatively easy. In rural areas, on the other hand, you might risk death penalty right away. Your family will finish you off there. But in the old Western quarters in Teheran it's fine to be a homosexual. Unless you get caught by the moral police that is—but that could happen in Sweden too. I don't mean to trivialize the dangers, but the picture is unbalanced here, how it is presented in certain contexts."

According to this description, "to be a homosexual," means behaving in a certain "homosexual" manner, which is to be understood as the public display of sexually provocative behavior. As absurd as the comparison might seem of the risks of being arrested by the Swedish police or being attacked by hateful homophobes with that of being taken by Basij, the Iranian paramilitary "moral police" which reportedly has been given increased authority during Ahmadinejad's rule, it is still true that public sex is condemned also in Western culture. Reports of public sexual activities between men in Teheran hence easily give the impression that there is a considerable tolerance.

The cultural tolerance of certain same-sex sexual activities as exceptions is highlighted in

the Migration Board's investigative trip to Iran in 2005.³⁷ Considering the demand for information about attitudes toward LGBT people in Iran, the delegation included routine questions about "the situation of homosexuals" in less delicate interviews with embassy staff and human rights organizations, generating answers of a very general character.³⁸ Nothing in this report implies that any active effort has been made to inquire about the situation; including attempts to speak to people that might have specific knowledge about the situation. Nevertheless, the delegation considered the matter sufficiently investigated to provide a definite recommendation:

"Nothing has emerged during our trip that indicates that the Board's perception of the situation of the homosexuals is incorrect. As long as one keeps one's sexual orientation a private issue there are no risks. Consequently there is no reason to apply a more generous practice." [p. 13]

The estimate that society tolerates "homosexuals" is based on two general observations that are common knowledge in Iran. The report states that young Iranians commonly have sex with people of the same sex in order to compensate for the difficulties of having such relations with members of the opposite sex before marriage. It also points out that "homosexuals" meet for sexual activities in a park in the central part of Teheran, with the silent consent of the authorities [p 13].

The fact that young people have sex with mem-

bers of the same sex implies that homosexuality is part of a phase when sexuality is not yet restrained, in the transition before the introduction to a heterosexual married life. The focus on the *substitute* aspect of this type of sex diminishes the importance of the partner choice.

The "tolerance" for public sex does not imply that there is respect for privacy. Allowing same-sex sexual acts to take place in the margin of public space can be a way of making sure that it belongs there, as despicable acts associated with prostitution that could have no place as "natural" relationships. A married man engaging in random sexual encounters in a park might be more "discreet" than the unmarried man without children hiding his relationship with a same-sex partner.

These two examples of "tolerated homosexuality" emphasize the distinction between sexual act and relationship, where the sex can be explained as a substitute, an outlet for a desire, where the partner plays a secondary role. They are both characterized by their modest infringement on a heteronormative structure. In fact, they can be explained within the framework of this structure as exceptions attesting to the rule, and hereby possibly tolerated as long as the system is not seriously challenged from the outside.

The benefits of being a homosexual

The lack of other information than that concerning sexual practices in the LGBT sections of the human rights reports from the Ministry of Foreign Affairs could be explained by the fact that some information of this type is sometimes to be found elsewhere in the reports. But the lack of cross-reference makes it necessary to know beforehand what to look for in order to make these connections. The section of the 2007 report fails to cross-reference both information about gender related discrimination found in the section on "women's rights", and information about moral regulations concerning dress, behavior and forms of social interaction in the general section. Such information is also left out in the Ministry's three documents with special focus on LGBT people/homosexuals in Iran [Lifos 14246, 18476, 18824]

37 | Investigative trip to Iran 2005, p 13, Lifos 13226; the document is classified with regard to foreign political relations.

38 | Sweeping statements are published even though there is nothing that implies that individuals questioned has specific knowledge about LGBT issues or the actual situation of LGBT people in Iran. There is no context for these statements, no follow-up on the information given or even apparent check up on its accuracy: an incorrect statement from a representative for the Red Crescent in Iran that women are not subjected to corporal punishment according to Sharia law is for instance included and left unmentioned in the report. No mentioning of the situation of "homosexuals" in interviews with representatives from UNHCR, UNICEF, the International Red Cross as well as a national women's center, the Kurdish Democratic Party of Iranian Kurdistan (PDKI) and three organizations concerned with the human rights of children and the elderly, leaves us wondering whether the subject was forgotten, too sensitive to bring up, or if the answers were not considered relevant to publish.

and consequently most likely in the decision support to the asylum cases. The impression is that these issues are not related. Notably the special reports instead include examples of how repressive regulations potentially benefit "homosexuals". "Homosexuality" is argued to be much in line with the strict gender segregation of the Iranian society that promotes socializing with members of the same gender.

In arguing that attitudes toward "homosexuals" are lenient in Iran, the statement that same-sex sexual relations go unnoticed is paradoxically mixed with the claim that there is actual *recognition* of homosexuality. A passage from a Ministry report that is quoted in an asylum verdict that concerns Iran and sexual orientation as ground for asylum, implies that a certain consideration is given on the basis of homosexuality: "To be a homosexual among other things means that one can be exempted from military service, although many hesitate to take advantage of this possibility since it might lead to difficulties in a later potential official position."³⁹

Keeping disturbing and demoralizing elements away from the military is certainly in the interest of the authorities. Counteracting homoerotic associations is necessary in order to prevent hegemonic masculinity from being undermined in a hetero-social society.⁴⁰ To refer to this type of discriminating policy as a benefit of the discriminated is strange, especially when the example serves to demonstrate how the use of this "benefit" involves having to be open with one's sexuality and even put on record as being a potential criminal.⁴¹

An even more obvious emphasis on the benefits of being a "homosexual" in Iranian society is to be found in a report from Norwegian Landinfo, "General information about homosexuals in Iran" ["Generelt om homofile i Iran", Lifos 20794]. Here Landinfo claims that the sharp separation of the public and private spheres allows space for sepa-

rate rules, and the gender separation freedom to engage in same-sex relations. In accordance with the tradition, "heterosexual Iranians also don't show their sexual orientation or express love in the public space. [...] The society is gender-segregated and homosexual men can, if they follow the game rules, socialize, live together, travel and share a hotel room without causing suspicion. It is also easier for homosexuals to rent spaces to throw big parties than it is for heterosexuals, since mixed companies are forbidden in Iran." [p. 6]

In order to pass you need to follow social conventions, which according to Landinfo are neutral with respect to sexual orientation. But in order to "follow the rules" it is not enough to have the coldness and skills to lead a double-life and hide the true nature of your "friendships", but first and foremost to be able to appear and express oneself according to the expectations on a typical male person.

The privileges consequently do not concern "homosexuals", but particularly men who live up to the norm to a certain degree, who have a traditionally "masculine" appearance. Men who are perceived as different, who are unmarried, have the "wrong" interests, looks or manners, most probably have a lot more problems leading an undisturbed "private life". The situation for women is not mentioned here.

That homosexuals in general, passing or not, are expected to be prepared for potential intrusions into their privacy is made clear in a rejection decision for an Iranian man from 2008.⁴² The man claimed to have fled the country after receiving threats of arrest at the house that he and his secret boyfriend rented at a holiday resort. He claimed that neighbors had seen them through a window net and provided the police with four witnesses in order to have them arrested. The Migration Board did not find the story credible, but not because of the alleged espionage or the fact that they managed to provide the exact number of witnesses that the Sharia law requires. What seemed

39 | See for example the guiding decision from June 27 2008, Lifos 18952.

40 | In the US this importance is demonstrated by the "don't ask don't tell" policy, which means that people who are open with a non-heterosexual orientation can be discharged.

41 | See for instance Saeed Kamali Deghan, "Rainbow over Teheran", March 17 2009, www.guardian.co.uk/commentisfree/2009/mar/16/iran-gay-rights

42 | Classified decision from the Migration Board, the exact date is masked.

strange was the fact that the men, who for so long had been careful to hide their relationship, had been so careless as to hand over their documents to the renter (by which they could be identified after they had fled the scene) and neglect to cover the window to protect themselves from the outside world. The assumption that heteronormal life is "natural" and a given point of reference in the everyday life of all people is often reflected in country information. It justifies the belief that people outside of the norm live in constant awareness and consideration of their difference and can be expected to act accordingly at all times.

"Pressure from the family to marry can be a problem, but one that also affect heterosexuals", Landinfo notes [p. 7]. To marry against one's will always involves suffering. But the fact that marriage for many people by definition can never be combined with romantic love does make it a LGBT issue. The statement also ignores the fact that the pressure on people who are perceived as different might be a lot more intense.

Landinfo also points to the fact that male prostitution is common in Teheran, "both among regular homosexuals and transvestites", and that "many young and poor homosexual men turn to prostitution in order to support themselves and their families." [p. 7] The passage implies that sex work has a "natural" place in gay culture (a fact that is emphasized by the rather unique reference to "a homosexual man in Teheran" as source of the information). It states that many prostitutes are trans-identified and that prostitutes are poor, yet there is no mentioning of the connection between this kind of otherness and misery, despite the fact that the people concerned are often cut off from families as well as the labor market. The fact that male prostitution is not problematized implies that male sexuality is not negatively affected by patriarchal structures.

The assumption that sexual orientation means sexual *practice* characterizes the dominant part of the COI. Since "homosexuality" is seen as a practice it mainly concerns men, as women's action space in the public sphere is so limited. There are apparent assumptions that relations between men

are primarily sexual, whereas relations between women are often described as "invisible", and hence protected.

The Western concept of "sexual orientation" is understood as something universal, even if this is not accepted in all cultures. Still, the needs that are recognized for people on the grounds of different sexual orientations in the West are often not applied when evaluating the situation for "homosexuals" in Iran, due to the assumption that their needs are different in nature because of the cultural differences. The assumption that same-sex sexual relations are unproblematic before the influence of Western influence finds support in claims from many "LGBT activists" in the Middle East who prefer to see themselves as human rights activists and oppose the imposing of Western ideas of identity. This is a defense of the rights of each culture to relate to "LGBT issues" on its own terms, and a way of making needs recognized without invoking the fear of Western imperialism that might only increase the vulnerability of people transgressing gender norms.⁴³ This does not go against the fact that LGBT people have always been vulnerable within these cultures and that radical social transformations are necessary in order to recognize the rights of all people, only that the strategies cannot be copied off of Western activism.

The heterosocialization process

Norwegian Landinfo attests to the value and place of a scientific perspective on what is culturally considered "natural" in the country information. The Landinfo report "General information about homosexuals in Iran" ["Generelt om homofile i Iran", Lifos 20794] includes a reference to accounts by Norwegian social anthropologist Unni Wikan of the extensiveness of homoerotic descriptions

43 | According to Kaseem Ibrahim, representative of the Danish organisation Sabaah [www.sahaah.dk], this was an important issue raised when activist groups and individuals representing an LGBT movement in the MENA region gathered in Copenhagen in 2009 on Sabaah's initiative. See also Human Rights Watch, "Together, Apart: Organizing around Sexual Orientation and Gender Identity Worldwide", June 2009, p 17: www.hrw.org/en/reports/2009/06/10/together-apart

in Arabic cultural history.⁴⁴ Wikan claims that "sex between men is considered a safety valve that protects women", meaning that it is tolerated as an outlet for men's sexuality in so far as it helps preserve the purity of women [p. 6]. This implies that homosexuality plays an important role and helps maintain a system based on the idea of women's sexuality as the highest protective value. The assumption that women alone are the bearers of honor may indicate that men's "escapades" are a subordinate problem.⁴⁵

This simplified analysis reduces the issue of gender to a simple power relationship between two biological sexes. The Landinfo report does not recognize that Wikan in her description of tolerated male homosexuality in fact refers to two very particular types of relationships, namely those "between older men and younger boys—and between men of the *khanith*-type [i.e. "non-masculine men"] and heterosexual men" [p. 6]. These are not characterized as same-sex relationships, but as essentially heterogeneous relationships presupposing distinct status roles complementary to the dichotomy of biological man and woman. In referring to interpretations of premodern traditions as an explanation of modern attitudes, it is necessary to question whether the concepts in question are really universally given. This involves questioning the ability to grasp the meaning of gender and sexuality in premodern times from the radically changed mindsets of today.

Janet Afary and Afsaneh Najmabadi, both Iranian Professors of History and Women's Studies in the United States, have respectively studied the development of attitudes to sexuality in modern Iran from premodern time with its predominant Sufi tradition.⁴⁶ Najmabadi states that the Iranian society has gone through a *heterosocialization process*, which has led to radical changes in ideas about gender and sexuality. The

modern heteronormative dismissal of homoeroticism as "frustrated heterosexuality" and a consequence of the strict division between men and women, "always located in the past, always already resolved and overcome", is a product of a settlement with the status-organized, premodern society [Najmabadi p. 240]. Gender and sexual conventions shifted as a result of contacts with the Ottoman Empire, Russia and Western Europe, democratic reforms and the entry into modern nationalism, which came about through the constitutional revolution in 1906 [Afary p. 9].

Since men and women in the premodern patriarchal society mostly lived in separate worlds, the complementary binary compound man–woman was not the given point of departure for power relations the way it is today, according to Najmabadi. The separating of desire, and even love, from women did not have to do with their protection, but was rather a necessity in maintaining a strict patriarchal order. Desire had to be inherently male and sustained without dependence on the female sex, which would open up for challenges of its given power [Najmabadi pp. 159–160]. Desire was considered lust for beauty, which could be found in *amrad*, the young male who had not yet grown a beard, as well as in the female.⁴⁷ The figure of the desired as an active agent, a being desiring to be desired, was appreciated in the *amrad*, who was also considered more of a companion, whereas the relationship with the female was primarily tied to the reproductive contract. "Masculinity" and "femininity" of modern society's strict gender division were rather seen as expressions of sexual statuses. These statuses could not be reduced to modernity's dichotomy of "active–passive", but must be understood as operative roles in their own right. Only the full-grown male could achieve the status of strict agent of desire, a position that could not possibly make itself desirable for other males, which meant that the modern conception of "homosexuality" was as incomprehensible as that of "heterosexuality". The

44 | Unni Wikan, "Islams usynlige seksualitet", *Aftenposten* January 7 2007, www.aftenposten.no/meninger/kronikker/article1591540.ece

45 | See more on honor and gender based violence from p. 38.

46 | References below are from their respective most recent work: Janet Afary: *Sexual Politics in Modern Iran*. Cambridge University Press, New York 2009, and Afsaneh Najmabadi: *Women with Mustaches and Men without Beards. Gender and Sexual Anxieties of Iranian Modernity*. University of California Press, London 2005

47 | Najmabadi exemplifies with how *khatt*, the thin moustache on women, was accentuated with mascara at the time when it was still the young beardless man's celebrated sign of beauty, before the role of *amrad* was banned and moustaches on women came to make them "look like men" [Najmabadi p. 233].

grown male who wished to be desirable for other males was disqualified from this power status, as *amradnuma*:

"The nineteenth-century distinctions of woman, amrad, amradnuma, and man meant that gender differences were not read through the template of sexuality, and that sexuality was not read through the template of gender. Specifically, gender was not the male–female binary that we now take for granted. Adult manhood was not just, or even in the first place, marked away from womanhood, but from 'amradhood'. Although being a woman and being an amrad were both positions that demarcated manhood, there was a sense of abjection associated with woman that did not pertain to amrad. Being an amrad was, after all, a transient phase of life: an amrad grew to become a man. The amradnuma, on the other hand, was a highly detested, abject figure. Unlike the woman who could not be a man, the amradnuma refused to become a man, and by that refusal he threatened manhood and displayed the fragility of masculinity, the ever-present possibility of adult manhood lapsing into the state of un-manhood. Womanhood and amradnuma-hood were distinct abject positions." [Najmabadi p. 237]

Najmabadi explains the modern shift in the conception of gender roles and sexuality with the thorough changes that were necessary in order to overthrow the previous status-oriented system. The process was simultaneous with a nationalistic trend, where "the beautiful" came to be deflected and projected onto the biological woman as a symbol of the motherland, the highest value that gave man his purpose: to protect her purity and make himself worthy of her devotion. Being loyal to the woman as the true partner became an essential task of man, and this required banishing every trace of homoerotic expression, which was now a threat against the pure brotherhood. This "upgrading" of the women's position required that they left their separate sphere to take the role as valid partners, and a promotion of the romantic marriage and the idea that the family unit should provide for the emotional and sexual needs of its members [Afary p. 198].

If inspiration for this hetero-social society came

from the West, Western culture also functioned as a warning example of the degeneration that occurs when decadent *femininity* is allowed to challenge hegemonic masculinity. This femininity, represented by men as well as women in Western culture, represented the shameful and banned premodern roles of amrad and the amradnuma, the sexualized gender role. It motivated imposing regulations in order to secure gender-correct behavior, such as stricter decree to cover up for women, mandatory full beards and prohibition of visible hair locks for men, in order to mark the distance from the vanity of amrad [Najmabadi p. 237]. In the hetero-social project men and women are rewarded for unanimously celebrating and upholding masculinity as a basis for society, where the feminine, as the consciously sexual, was masked, according to Najmabadi. Fighting same sex desire was just as much in the women's interest in order to uphold their status as the men's primary partners. But the imminent threat of the banished roles does not fade, Najmabadi notes, but is rather built into the social system.

Heterosocialization meant a breaking up of the separate male and female spheres; the private sphere was no longer reserved for the women and the public sphere was now a mixed arena on masculine terms. Without romanticizing the previous system where women were cut off from the male sphere of power, Najmabadi and Afary state that the heterosexualization project has been a rather "bad deal" for women. Women lost the power over a separate domain, only to be put under full control in the public, where they were still denied equal participation [see Najmabadi pp. 150–155].

The claim that "homosexual" relations would be "facilitated" in this modern environment, or benefit from the freedom of privacy, is also contradicted by Afary's analysis of the development of society. According to Afary the regulation of public morality, in its particular strictness when it comes to sex between men and women, can in fact be understood as encouraging of "heterosexual" relations in private. When same-sex desire is explained as an experimental phase, it causes a fear that young people will not develop properly into "heterosexual" beings due to the tough terms on which they will get in contact with the

opposite sex. According to Afary, urban middle-class parents have been motivated to provide their children more freedom to socialize with the opposite sex in the privacy of the home, to keep them safe from the morality police and to urge on marriage [Afary p. 337].

The moment "heterosexuality" becomes an obligatory practice, "homosexuality" appears as something necessary to repress. Najmabadi and Afary demonstrate that the "homosexual premodern" must be understood at once in its own light, and as a modern product of hetero-social culture, which has a discouraging effect and motivates repression. It is necessary to handle these complicated perspectives in order to reveal underlying structures that are easily lost in simplified analyses of modern facts. The common basis of the status-oriented and gender-oriented structures of sexuality, which underlies transformations and extends through history, is the patriarchal structure. General sexual morality, attitudes toward women's rights and gender transgressions seems to emanate from the need to repress an uncontrollable "femininity", which challenges masculine reign by questioning the essential connection of agency to biological manhood, or even masculinity as such.

The strict control in order to maintain the distribution of roles for men and women has continued to provide a certain free space for men who stick to the given role play (in particular perform their reproductive obligations).⁴⁸ Focus on the connections activity–manhood, passivity–womanhood, means that there might be tolerable degrees of transgression at least for men. As long as expression of "homosexuality" is controlled and

less obvious, hence less socially disruptive, deviant behavior might be excused as excess of male sexuality, and men with an "active" appearance are less likely to be questioned. (According to a view of women as sexually passive, there is no such space for women.)

The relative freedom for those who *pass* in society might in fact be the most effective factor in preventing demands for gay rights, and even more so for other minorities within the LGBT spectrum. Claims of a gay identity might lead to a lowering of status and unwanted challenge of the more privileged participants in the category of men who have sex with men (MSM). Their status is maintained at the expense of those who cannot hide their deviation from basic gender norms, "effeminate" men, or "passive" male partners.

If society exercises self-control in repressing the visibility of gender-transgressing expressions, gender norms do not have to be enforced by the authorities. Such enforcement would bring the subject into the open and might open up for questioning of the validity of these norms. Instead the authorities can focus on crimes that are more in line with men's affirmed "masculine" vices, such as excessive sexuality and exercise of violence and abuse, which confirms the idea of the "passive" role as gender-transgressing for men and a humiliation of manhood.

The sodomy legislation

A typical example of the common type of simplification from the Swedish authorities in treating the question of threat against LGBT people is to be found in a document from the Swedish embassy in Teheran from June 2008 [Lifos 18824]. The document is a response to explicit questions from the asylum units, all concerning the application of article 110 in the Iranian penal code prohibiting same-sex sexual relations and imposing death penalty for same-sex sexual acts.

In response to the question of whether people actually have been executed because of their sexual orientation, the Ministry makes clear that "[h]omosexuality is not a crime in Iran." "The embassy's apprehension is that nobody is executed

48 | Najmabadi notes that sex between persons of the same sex is seen as shameful acts, rather than expressions of sexual "types", and that the temporal aspect of this sexual behavior prevents minoritization, distribution into identities outside of the norm. Sexual acts between men can still be seen as expressions of youthful play, while sex between women might be conceived as expression of the failure of men to keep women satisfied (hence possibly a greater threat) [Najmabadi pp. 57–59]. But, "[a]s modern Iran becomes increasingly heterosocialized, temporal marginalization of same-sex practices has become less persuasive. Other marginalization moves such as effeminizing, typing, medicalizing, psychologizing, and exteriorizing (attribution to cultural disruptions of the West) have been crafted." [Najmabadi p 58]

in Iran as a consequence of their sexual orientation. However, people can be executed or punished in other ways for sentenced crimes. Sodomy is such a crime, according to the Iranian penal code."

In response to the separate question whether the stipulated law against sodomy is enacted in Iran, the embassy states that about two rulings in sodomy cases are made public each year, usually with a following death sentence. It also states that there are far more sentences where the accused has been executed where there are charges of sodomy in combination with rape and/or murder, where it is unclear what charge actually led to execution. "Rape of under-aged boys is characterized as rape, and not sodomy. The sanction is most often death sentence, after which execution can be effected. The crime, however, is in these cases the actual assault of a minor, and not the homosexuality as such."

The initial sharp separation of identity/orientation and sexual act serves to clarify the embassy's assessment that it is no persecution going on here: the sodomy law is not aiming at targeting "homosexuals", but a very specific type of sexual conduct. The few sentences for specifically sodomy (of which no examples are presented here) indicate that it is a question of a particularly provocative behavior. This is further emphasized by the fact that charges of sodomy more commonly include serious elements of violence. In the light of the many cases where sodomy appears in the list of violent crimes, the few sentences specifically for sodomy are easily associated.

While the Ministry states that it is unclear what actually leads to execution in cases when both sodomy and violent assault are among the charges, it finds no such confusion in the case of rape of minors. Considering the attention just called to the difference between orientation/identity and practice, the sudden contrasting here of assault with *homosexuality*, and not with voluntary sexual practice, is notable. In Sweden sex with a minor in itself is an act of violence, making the question of force secondary, as children have the right not to be subject to adult sexual advances. The crime is here automatically understood to be in accordance with Swedish norms, but when "sodomy" is so tightly connected to humiliation and force, and

there is no acknowledged age of consent for same-sex sexual relations, the meaning of "rape" and "minor" cannot be automatically expected to correspond to those norms. The charge of "sodomy" is indeed separated from the classification of assault, but the fact that sodomy is listed as an additional charge in cases involving violence and force at the same time demonstrates how "sodomy" is associated with assault. The strictness of the penalties legislated against sodomy, at the level of crimes of violence, also implies the connection between same-sex sexual acts and degraded masculinity.

The Ministry of Foreign Affairs states that there is no reason to doubt the authenticity of the official classifications:

"When it comes to crime, the Iranian newspapers are considered to generally report only that which the government authorities wish to see published—as a warning to others. If something concerning crime and punishment thus has been published in the newspapers, one can assume that the reporting is correct. Sensational journalism as we know it in the Western world does not exist in these cases. That the evidence requirements vary depending on the crime is a fact, but there is nothing that points to reasons for charging a person for another crime when it is really sodomy, only because the evidence requirements would be lower, or to avoid negative reactions in foreign, particularly Western, press."

Apart from the obvious absurdity in taking state-controlled media reporting as evidence for the veracity of charges, the conception of the signification of making verdicts public is simplified. A sentence can signal "a warning", but legislation and verdicts serve to influence attitudes in more sophisticated ways. Treating the problem of sodomy as an excess of the masculine urge to dominance might be a requirement in order to maintain the idea of at least the "passive" role in MSM (as well as the "active" role in WSW) as a twisted expression of gender transgression. A more relevant reason to not make cases that involve consensual same-sex sexual acts public would thereby be the risk of changing societal attitudes and evoking sympathies.

One question in the embassy response inquires whether the evidence requirements are really as tough as stated in the Ministry's latest human rights report from 2007. The section that concerns "discrimination on the basis of sexual orientation and gender identity" in this report states that the evidence requirements in sodomy cases are "high; demanding four just witnesses or the confession of both parties before the court." This is the information that is referred in the asylum cases we have studied from as late as 2009.⁴⁹ In the sections of the report that specifically deal with the rule of law and law policy in Iran it is emphasized, however, that a certain risk is at hand of uneducated judges making arbitrary decisions in so-called hudud crimes, which include sodomy.⁵⁰ The embassy confirms that article 120 in the penal code, acknowledging a judge's "personal knowledge of Islamic law" as valid basis of a sentence, is applied in cases "where the evidence of the prosecutor is weak, insufficient or for example has been rejected by a higher court", or "to supplement deficiencies" in the Iranian penal code. Specifically asked in a separate question, the embassy confirms that torture is generally used to collect confessions, and that a reasonable defense is not to be expected in these cases. According to the embassy the downplaying of this information concerning sodomy cases is justified since it has not been evidently more common in these cases per se. This attitude to relevance of legal information clearly demonstrates the importance of increased cross-referencing from the COI Unit, as well as of providing a wide spectrum of references.

The 2008 embassy statement can be seen as a reactive response to the far too general claims from human rights organizations. However, the uncritical attitude toward the authorities does give a stronger impression.

The sodomy law obviously does not only concern the possibility of legal punishment, but serves to uphold negative attitudes and unequal power relations. The exile Iranian gay activist Saviz Shafaie early on expressed the duality of the understanding of same-sex sexual acts between men as "socially acceptable":

"There is a conditional permission for erotic games or even rape as an exercise of male power. Pretend it is a joke, or a put-down and you can get by. But call it true love or honest and real sexual desire and you are in trouble. If you cross beyond traditional sex regulations and fail to prove that your ultimate desire is dominating a woman, you would be considered a suspect. If you act upon your passionate lust and disclaim it, you are safer than claiming an honest love."⁵¹

Brian Whitaker is the Middle East editor of *The Guardian* newspaper, has a degree in Arabic studies and is well acquainted with gay life in the area. In his recent book *Unspeakable Love* he gives examples of how underlying unequal power dynamics come through in court rulings, and argues that the emphasis on the connection between violence and same-sex sexual acts serves to uphold oppressive structures. One such example is the case of an Iranian man who was said to have videotaped sexual acts with male partners in order to blackmail them. For this crime he was executed in the city of Bojnurd in April 2005. According to Whitaker the man "appears to have been executed for rape rather than *lavat*, on the grounds that blackmail removed any element of consent from his sexual acts." Another case concerns two men sentenced to death by Teheran criminal court after a video was found showing them in "homosexual acts". According to a reporting in an Iranian newspaper one of the men admitted, "he had made the video as a precaution in case his partner withdrew the financial support he had been providing in return for sex."⁵² Criminalization, lack of rights and the

49 | For example, see guiding decisions from June 27 2008, Lifos 18952

50 | Ministry of Foreign Affairs: "Human Rights in Iran 2007", p. 7, Lifos 18309, and a separate comment from the Ministry "Concerning the situation for LGBT people in Iran", December 2007, Lifos 18476. Hadd/hudud crimes contain serious sexual offences, are not included in codified law and according to Sharia law imply not only a crime against the individual, but directly against God, and therefore motivate especially harsh punishment.

51 | Interview in Gay Today May 27 1997, <http://globalgayz.com/country/Middle%20East/view/IRN/gay-iran-news-and-reports-1997-2004#article1>

52 | Brian Whitaker: *Unspeakable Love. Gay and Lesbian Life in the Middle East*. Saqui Books 2006, p 126.

upholding of sexual hierarchies creates a hotbed for extortion, delation and violence in a way that afflicts people transgressing gender norms, which in turn consolidates negative attitudes toward this group.

Scott Long, Executive Director of the Lesbian, Gay, Bisexual, and Transgender Rights Program at Human Rights Watch, has called attention to the danger in unreflectingly dismissing official claims from the authorities. When two young boys were convicted for rape and executed in Mashad 2005, many Western gay and human rights activists assumed the accusation was made up, not least since the two were said to be a known couple. Long points out that the accusation of rape of a young boy came out when the father of the victim defied the shame of his son's situation and talked to the media, an act that is by no means encouraged by Iranian society. The fact that the accused were a couple, or the boys' possible unawareness of the seriousness of their act, does not make the accusation unjust. According to some reporting the boys did not grasp the concept of "homosexuality" or society's attitudes toward their behavior, or that these acts could be seen as criminal, or possibly even strictly sexual, since there were no women involved. This does not reduce the seriousness of the assault, but demonstrates the risks for men and women in a culture that promotes masculinity as dominance.⁵³ However, there is no justification for executing two adolescent boys.

Identities transgressing gender norms

The limited conception of the LGBT refugee as a homosexual man seeking asylum on the grounds of his sexual orientation is understandable, considering the representation in COI from authorities, human rights organizations and the media. But a look at the listings of current asylum seekers on the grounds of sexual orientation and gender identity published by the Canada-based organization Iranian Railroad for Queer Refugees, reveals that people identifying as transsexuals and transgen-

der, as well as a few non-heterosexual women, figure in the stream of refugees.⁵⁴

One of the very few known cases in Sweden that involves transgender identity as ground for asylum concerns the Iranian citizen Kian, in 2004. Kian, who identified as a man but had legal status as a woman, claimed political involvement, and the physical abuse and persecution from family members due to a longer relationship with a woman as well as a general "unwomanly behavior", as reasons for refugee status. After a suicide attempt Kian was committed to psychiatric care in Sweden, where the medical evaluation stated:

"She has been transsexual since early childhood. She finds it hard to relate to the concept of homosexual and prefers to describe it as always having felt like a man in a woman's body. For many years she has received death threats, been harassed and persecuted, and repeatedly been subject to torture due to being transsexual. As far back as in her early childhood she was threatened and harassed by her siblings since her behavior was more similar to that of a boy than a girl. Generally she has the emotional imprint of a man's identity. It is of such serious and profound character in her personality that there is reason to describe it as a gender identity disorder. There is great risk of suicide, and it is important to considerate the fact that she is an asylum seeker and the strong feelings of despair that comes with this situation. In a situation of extreme stress she might see suicide as the only solution to her suffering."

The Aliens Appeals Board established that there was no reason to question the applicant's male gender identity, but that this fact was no grounds for asylum since "sex reassignment and consequently transsexuality is ... permitted in Iran."⁵⁵ Of relevance was rather the possibility that "she in returning is conceived as a homosexual by authorities and individuals", since this might cause problems. In the inquiry into whether Kian might be taken for a "homosexual", only the aspect of sexual conduct was considered to be of importance. The Aliens Appeals Board established

53 | Scott Long, July 31 2005, www.rodneycroome.id.au/other_more?id=1812_o_2_o_M18

54 | www.irqr.net/queerrefugeenews.htm

55 | Classified decision from the Aliens Appeals Board 2004, the exact date is masked.

that "people of homosexual orientation do not risk persecution or interference from the authorities in Iran only because he or she is a homosexual. Not until a homosexual person openly manifests this sexual orientation he or she might be in risk of legal measures or harassments." This "open manifestation" meant being open about same-sex sexual relations, something that could be avoided and also attended to: The Board suggested that Kian move to an area where "her" previous relationship would be unknown. The fact that Kian could not voluntarily choose to conform to gender norms sufficiently to pass and avoid suspicion was not considered, nor is there any mentioning of the fact that "cross-dressing" could actually lead to arrest in Iran. It seems that Kian's gender identity was reduced to a secondary expression of sexual orientation rather than gender expression in its own right: Kian's gender identity might be the result of the denial of "her" homosexuality, and hence not important to acknowledge. Ruling out the problems of transgender identity in Iran by simply stating out that "sex reassignment" is "permitted" clearly implies that "real" transgender people are expected to seek this solution.

It should be noted that a reduction of transgression of gender norms to homosexuality finds support in the medical report, which starts out by characterizing Kian's male identity as a "preferred" alternative to that of being a homosexual woman. Despite its apparent need to diagnose Kian with "gender identity disorder", Swedish law today recognizes the right of individuals to define their gender identity irrespective of formal legal status. Despite this, Kian's female pronoun was used consistently throughout the process, as well as the legal female name he explicitly rejected. The importance of stressing Kian's status as a biological/juridical female was further emphasized by the fact that women's organizations would and could give support arguing for his vulnerability on this particular basis.

Kian's refused asylum was never executed since he ended his life in a second suicide attempt. The tragedy led to a certain exposure of the case and reactions from human rights and LGBT activists. However, the complicated relation between gender and sexual orientation as grounds for asylum, and

the consequences of their separation, is yet to be problematized.

Due to the lack of known cases involving transgender persons seeking asylum in Sweden it is hard to evaluate the development of attitudes to these issues. The existing official COI of today does not, however, provide much guidance. The use of "LGBT" as a substitute for "homosexual" might appear to implicate aspects of transgression of gender norms, but as a juridical concept it concerns mainly sexual acts. Information concerning transgender people almost exclusively concerns transsexuals and is restricted to whether sex reassignment surgery is permitted and possibly subsidized. In these accounts of the legal premises for transsexuals, central information about whether the legal identity can be changed is often omitted, which means that there is no real information about the possibilities to actually pass after operation (something that might be as important in countries where gender norm transgressing expressions are not illegal per se).

From a Swedish perspective it might seem strange that transsexuals are acknowledged in countries with a strong dissociation towards homosexuality. Confusion over this fact might lead to the assumption that attitudes towards LGBT people are more liberal than is often claimed by activists. But the fact that Iran is one of the more than 80 countries that reject the demands to include the right to *sexuality* in the list of human rights is entirely consistent with the fact that it is only surpassed by Thailand in the number of performed sex reassignment operations.

In Sweden the term *transsexualism* today officially replaces *transsexuality*, a term that is seen as outdated and connected to a heteronormative concept of sexuality where gender is dependent on sexual orientation. The term was invented in order to distinguish the experience of gender identity from sexual orientation, emphasizing that neither is determining of the other. But it is important to acknowledge that there might be a reciprocal and fluid relationship between gender and sexuality, rather than understanding them as absolute separate aspects. This perspective is not recognized in present-day Iran.

Ayatollah Khomeini was the first in the Islamic world to bring the issue of transsexualism to light and issued a fatwa that declared sex reassignment surgery including change of legal gender status a right for those who had the experience of being "prisoner in the wrong body". Priests study the phenomenon, which is considered "an illness like any other for which Islam has the solution and science the cure."⁵⁶ In a BBC News interview in 2005 Hojatol Islam Muhammed Mehdi Kariminia, leading expert on "transsexuality" in Iran, stressed the difference between immoral defying of norms and the unwanted deviance, which rather serves to strengthen the norms:

"The discussion [regarding transsexuals] is fundamentally separate from a discussion regarding homosexuals. Absolutely not related. Homosexuals are doing something unnatural and against religion," says Kariminia. 'It is clearly stated in our Islamic law that such behavior is not allowed because it disrupts the social order'.⁵⁷"

The wish to have a body, gender expression and a legal identity conforming to the societal norm is a confirmation of its rule. Hence, the ambition to achieve this compliance is important to acknowledge, whereas the freak nature of those refusing this conformity must be emphasized. "Transsexuality" is tolerated to the extent that it confirms that gender norms—including "heterosexual" behavior—have their origin in the human biology as the "natural" human state.

Afsaneh Najmabadi points out that irrespective of the importance of recognition for transsexuals, this relatively new understanding of transsexualism as *trans-sexuality* is deeply problematic, in so far as it makes understanding of non-heterosexual desire (as well as other transgressions of gender-correct behavior) impossible. Therefore it is recognition through an explanatory model according to which all transgressions of gender norms are expressions of "gender dysphoria" or immoral devi-

ance, and that motivates strict gender-correct methods of upbringing and "treatment" of deviants.⁵⁸

Arsham Parsi, one of the most well-known representatives in exile of Iranian LGBT people, and founder of Iranian Railroad for Queer Refugees⁵⁹, claims to often come in contact with people who have "changed sex" not only because they find it impossible to live with the constant accusations of having an "unmanly" or "unwomanly" expression, but also to get recognition for their sexual preferences.⁶⁰ In her 2008 documentary *Be Like Others* Iranian filmmaker Tanaz Eshagian depicts individuals who have taken the step to undergo surgical and legal sex reassignment as a result of feelings of shame, and constant hardships as "non-masculine" persons having to get by in the world of men. Their decisions are often preceded by experiences of being barred from educational institutions and working life and pressure from same-sex partners who no longer can stand the society's rejection of their relationships.⁶¹

The rejection of non-gender-appropriate behavior does not exclusively affect "homosexuals", but all people who are perceived as challenging important gender norms in various ways. In fact, same-sex activities might only be an issue insofar as these are considered to be violating gender norms. An awareness of the relative nature of the concept "transsexuality" is expressed by Iran's leading sex reassignment surgeon, Bahram Mir-Jalalihar:

"Transsexuals aren't homosexuals. Unlike homosexuals, they suffer from a separation of body and soul where they believe their own body doesn't belong to them. But in Europe they can have a free life. They aren't under the same pressure to change their sex. In Iran, transsexuals suffer from a lack of awareness, within their own family and in wider society. That increases the psychological pressure and contributes to the higher number of operations here."⁶²

56 | Frances Harrison: "Iran's sex change operations", BBC News January 5, 2005, <http://news.bbc.co.uk/2/hi/programmes/newsnight/4115535.stm>

57 | Vanessa Barford: "Iran's 'diagnosed transsexuals'", BBC News February 25, 2008, <http://news.bbc.co.uk/2/hi/7259057.stm>

58 | Afsaneh Najmabadi: "Truth of Sex", *Iranian.com* January 12, 2005, www.iranian.com/Najmabadi/2005/January/Sex/index.html

60 | www.arshamparsi.net, www.irqr.net

60 | www.irqr.net/English/193.htm

61 | www.belikeothers.com, <http://news.bbc.co.uk/2/hi/7259057.stm>

62 | Robert Tait: "A Fatwa for Freedom", *The Guardian* July 27, 2005, www.guardian.co.uk/world/2005/jul/27/gayrights.iran

Who is "transgender" is defined by culture and depends on the rigidity of the system, which in turn might depend on its stability. In a society that does not take the division of two genders as an absolute, the "separation of body and soul" might not be an issue. But as long as the two-gender system is a pivotal and unchallenged foundation of the social order, with two mutually excluding roles, passing will remain an exclusive possibility and its status consolidated by the alienation of those who do not.

Transgression of gender norms is a factor always involved when it comes to discrimination or persecution of LGBT people, which motivates giving these aspects far more attention, space and analysis in the COI. Existing disciplinary structures that punish gender-transgressing behavior (also of a non-sexual kind) is often left unexplicated in the reporting. Information about rules for behavior and clothing is to be found in the human rights report about Iran from The Ministry for Foreign Affairs, but should be referred to in the section about the situation for LGBT people. The fact that people who transgress gender norms are given the choice of living as criminals or to go through sex reassignment surgery should also be worth mentioning.

To state that it is "okay and permitted" to go through sex reassignment surgery in Iran is also far to generalizing, according to Mahin Alipour, director of The Committee for the Defence of Iranian Women's Rights (*Kommittén för försvar av iranska kvinnors rättigheter, KFKI*) and the Iranian organization Equal Rights Now.⁶³ She got to know Kian during his three years in Sweden as an activist committed to the struggle for his status as a refugee. Today she is in contact with an Iranian transsexual woman who is hoping for the chance to go through the sex reassignment process in Sweden, where she ended up after being granted refugee status in Turkey. Her escape was allegedly preceded by a long period of harassments in Teheran due to her choice to live according to

her gender identity without formal permission. To go through sex reassignment in Iran implies to be officially registered by the authorities, which many fear, not least because of the possible risks of change in societal attitudes and potential persecution by fundamentalist groups, Mahin Alipour states. The applicant must also be able to afford the expensive surgery which is only partly covered by the state, have family support and not least pass the "Muslim council" that has the task of confirming that the applicant meets the requirements. The fact that sex reassignment surgery is permitted does not mean that individuals are guaranteed the diagnosis as transsexual. Neither does it not mean that it is granted men and women equally, or that it is allowed for persons who do not identify as heterosexual in their claimed gender. Having the right papers certifying your identity also does not automatically make you "normal" in the eyes of society, Alipour points out. Regardless of the recognition of transsexuals, people are forced to live illegally until being granted a diagnosis, and will often also hereafter be safe only insofar as they pass as model men and women.

63 | Equal Rights Now: Organization Against Women's Discrimination in Iran; www.equal-rights-now.com

GENDER AND SEXUALITY:

Gender-based violence in Iraq

The defense against demasculinization

The example of the second country that today is known to generate many LGBT refugees opens up for a partially different focus in the COI. While information about Iran mainly concerns state persecution, the focus in reports on Iraq is on the threat from non-governmental agents, such as militant militia and, to some extent, “private” actors. Even if the number of Iraqi citizens among the asylum seekers on the grounds of sexual orientation in Sweden has been notable during a long time according to people with a particular insight⁶⁴, it first became more evident in Swedish COI during the fall of 2009. In August the organization Human Rights Watch launched the alarming report “They Want Us Exterminated. Murder, Torture, Sexual Orientation and Gender in Iraq” [Lifos 21287], which received great media attention, with unique testimonies on explicit addressed violence against people expressing gender norm deviating behavior. This was a confirmation of many of the passed year’s media reports, of which a few have been represented in Lifos, mainly by way of the regular reports from UK Home Office, which has a different policy for the handling of “unreliable” sources. From the Migration Board or the embassy in Baghdad no substantial contribution concerning the situation of LGBT people in the country has been made since the official human rights report from 2007,

which, in the face of a stream of “informal” reports of serious abuse of Iraqi LGBT people, states that “[l]ittle is known on the situation of homosexuals in the Iraqi society today.” [Lifos 18314, p 17]

As far as the legal situation for LGBT people goes, judged by the occurrence of a “sodomy law”, where a Sharia inspired but officially applicable secular penalty code is applied, is indistinct. The Ministry of Foreign Affairs simply states that “homosexual practices between grownups” are penalized with up to seven years in prison, or up to ten years if a minor is involved [Lifos 18314, p. 16]. Other sources have been considerably more cautious when commenting on the legal situation. Even ILGA’s “State-sponsored Homophobia” describes the situation as “unclear”, since the penal code from 1969 that was reintroduced 2003 not explicitly forbids same-sex sexual acts [Lifos 21094, p. 23]. But this unclarity also leads to the claim that LGBT people are legally protected. For instance, UNAMI, UN Assistant Mission for Iraq, claims that “[e]ven though homosexuality is not condoned in Iraqi society, homosexuals are protected under Iraqi law”, a conclusion that could only possibly have been drawn on the basis of the constitutional writ that “every person has the right to a private life as long as this does not violate other’s rights or general moral.”⁶⁵ There is no mentioning of “sexual orientation” in Iraqi anti-discrimination laws, and considering that “honor” constitutes a marked boundary for freedom of

64 | Informed are for instance Stig-Åke Pettersson from RFSL and Maria Bexelius, consultant in migration and gender issues who has also represented LGBT people seeking asylum.

65 | UNAMI HRO. Human Rights Report 1 Nov–31 Dec 2006, p. 26 www.uniraq.org/FileLib/misc/HR%20Report%20Nov%20Dec%202006%20EN.pdf [By way of UK Home Office; COI Report Iraq 12 January 2009, Lifos 20122, paragraph 24.07, 24.08, p. 150]

action in Iraq, and that there is a constitutional norm to not cross the established regulations of Islam, it is hard to see how “homosexuality” could be seen as protected.

In “They Want Us Exterminated” Human Rights Watch states that the only section that specifically mentions same-sex sexual acts in the Iraqi penal code is paragraph 394 on “Rape, Homosexual Acts (*Liwat*) and Assault on Women’s Honor (*Hatk el’Ard*)”, a kind of “gender-neutral rape law”. This seems to be the basis of the interpretation by the Ministry of Foreign Affairs, considering the corresponding penalties mentioned [Lifos 21287, p. 27]. In this law the explicit connection is made between sexual coercion, sexual relations that break male gender norms, and the violation of the value of a woman’s virginity, as associated consequences of unruly masculine aggression.

Human Rights Watch’s report also enumerates a few examples out of the multitude of ambiguous moral codes that complete the regulations: A person who “commits an immodest act” in public or “makes indecent advances toward another man or woman” might be punished with six and three months respectively. To wash oneself “in an indecent manner”, appear in improper clothing, or simply being suspected of loitering in or observing a public place “with indecent intent or for an indecent purpose”, might lead to ten days of arrest. In addition, the promotion of any “movement” that seeks to “change the fundamental principles of the constitutions or the basic laws of society”, disseminating any information or idea that “disturbs the public peace”, or “obscene or indecent” publication or speech, might lead to long prison terms [pp. 27–28; from the Iraqi Criminal Code, Law Number 111 of 1969 and its Amendments]. These regulations leave lots of room for interpretation and possible legal interferences.

When the Migration Board made an investigative trip to Baghdad November 21–December 1 2008, no specific investigation on the situation for LGBT people was made, even if the general question on the treatment of homosexuals was included in some of the interviews with representatives of

authorities, embassies, and international organizations. The short section on “LGBT” in the report states that the violence has become more directed towards people expressing norm deviating behavior, that the “level of consciousness and knowledge has decreased” under religious influence, but that homosexuals are said to gather at a café in the district of Sadr City in Baghdad: “In the future—maybe in a year and a half—it might, according to a reviewer, be illegal to be homosexual.”⁶⁶

The COI analyst who partook in the delegation can today not account for the sources of the information, or further explain what is referred to, since the information consisted of shorter notes taken of what rather spontaneously “came up” in informal conversations during the trip, and was not further looked into. The basis of the last statement is unclear, and confusing considering the assessment by the Ministry of Foreign Affairs that “homosexual practices” are already to be seen as forbidden. The lack of expounding means that the trend of events will remain unexplained. In another recent report, Human Rights Watch emphasizes the significance of “the moral issues” as a unifying factor in the face of increased pressure from Islamic groups, where people with gender deviating behavior easily are made symbolic victims in the defense strategies of the authorities.⁶⁷

The present-day tactics of “weeding out” individuals that lack sympathy from the society, family or an open group that can act as witnesses, causes great difficulties in the gathering of exact and trustworthy information. The report “They Want Us Exterminated” is unique since it is a report based on the perspective of people who are at the center of the violence, made by a respected international organization. But it is also unique in its reporting of how moral indignation can be generated and work to resist the threat of a globalized

66 | The Migration Board; “Iraq, Investigative trip to Baghdad”, p. 20, Lifos 20062

67 | Human Rights Watch points out that secular authoritarian regimes are equally or more inclined than the religiously founded to go after gender/moral deviants, often as a result of a fear of political Islam coming into power as a result of democratization processes. Human Rights Watch: “Together, Apart: Organizing around Sexual Orientation and Gender Identity Worldwide”, June 2009, p. 16–17 [not included in Lifos]; www.hrw.org/en/reports/2009/06/10/together-apart

feminized culture. Symbolically charged violence from paramilitary militia meant to “send a message” is justified by condemnations from religious authorities, through what seems to be a silent consent from the public authorities. The report illustrates how the media contributes to emphasize that a “wave of feminization is sweeping Baghdad neighborhoods”, a moral decline causing “a change in students from roughness to an exaggerated softness” to the extent that their professors can no longer separate men from women. According to a newspaper, police stand by and do nothing while “effeminate” men are attacked and killed, and “there are very strong rumors of the existence of groups that keep tabs on men who use female hormones, use face whitening creams, or wear their hair long, so that they may kidnap them from their homes late at night.” [p. 34–35] “Homosexuality” is here understood as a pure expression of transgressing gender norms, something that “demasculinizes” the society and weakens its power. The feared “femininity” in question is obviously not just passively oppressed “womanliness”, but the decadent expression for a “longing to be desirable”, as described by Najmabadi. The targets are identified as beardless men with locks of hair, carrying jewelry, figure-hugging clothing and low-cut pants, lightening make up, perfume and hair gel, or simply “looking neat, dressing carefully.” [p. 38] The often strongly sexualized violence that has been accounted functions as punishment, with sexual assault as the rightful response to gender deviant behavior. There are also accounts showing the significance of an unacceptable blurring of the line between private and public, normality and irregularity, when photos from forbidden parties and intimate situations are spread by way of cell phones and published on the internet [p. 37].

Human Rights Watch further points out that a development towards an increased tribal power in Iraq has increased the significance of blood connections for subsistence, patronage, and protection, as well as for identity formation, which entails an increased pressure on people expressing norm deviating behavior [p. 41]. Militant groups work through an infrastructure of clans,

and make use of the fear of lost family honor as a unifying factor in the southern and central parts of the country. This entails that exposure of LGBT people within the family can be directly linked to the occurrence of paramilitary activity, something that is unprecedented in the autonomous and more controlled KRG area in the north. From this the conclusion is easily drawn that the problem for LGBT people both in “the public” and “the private” sphere can be geographically demarcated to the central and southern parts of Iraq.

In connection with the stir associated with the introduction of the Human Rights Watch report, the Director for legal affairs at the Migration Board was invited to comment on the situation on Swedish national television’s morning news. In preparation for the statement, the researcher responsible for Iraq compiled specific information about the situation. This compilation document gives a wider survey of available information and refers to current reporting of a kind that is rarely linked in Lifos when it comes to LGBT issues, for example individual testimonies mediated by Swedish public radio and *New York Times*.⁶⁸ It also includes information that indicates exposure among LGBT people in the KRG area, which is confirmed by Human Rights Watch who explicitly advice against sending back or moving people exposed from the south and central provinces to the northern area [“They Want Us Exterminated”, p. 53]. Despite the fact that an increase in the number of Iraqi asylum seekers on the grounds of sexual orientation has been noted, this compiled information was not published in the database. Instead, a legal standpoint “on homo- and bisexuals from Iraq⁶⁹” from the Director for legal affairs was published in October 2009 [Lifos 21656], which from a compressed summary of the situation aim at giving a more hands-on guidance for decision-making in an acute case. The standpoint advocates sending back male individuals who have any connection to the KRG area, “unless individual conditions entails it being unreasonable.” [p. 8] It is pointed out that the societal taboo secures a silence when it comes to homosexu-

68 | www.sr.se/ekot/artikel.asp?artikel=2780680, www.nytimes.com/2009/04/08/world/middleeast/08gay.html?_r=3&hp

69 | See comment on the defined group on p. 14.

ality that make it possible for men to have secret same-sex sexual relations. Lack of information about serious assaults on the group by family and society is specifically cited as grounds for the assessment, with particular reference to the reports from recent investigative trips to the KRG area with focus on honor related violence made by the Migration Board as well as the Danish and Norwegian asylum authorities [p. 2] (see account of this further on). This, however, does not include “homo- or bisexual women”, since women who violate male regulations are documentedly exposed, and therefore has a certain need of protection on the basis of gender.

In the report “The situation of homosexuals in northern Iraq” (“Homofilers situasjon i Nord-Irak”) that was compiled at the same time by the Norwegian Landinfo [Lifos 21620], a partially different interpretation is made of the information in the Scandinavian reports on honor related violence. Here it is pointed out that risk of violence from family and surroundings must carry weight when commonly occurring, and that the extent is not evaluated sufficiently: “The lack of reported occurrences against homosexuals does not necessarily imply that assaults are non-existing.” [p. 2] Instead of focusing on how the silence on issues concerning sexuality and deviation from gender norms enable LGBT people to “lie low”, it is noted that these taboos probably reduce the possibility to obtain support from the authorities when exposed.

The lack of information from the geographical area of northern Iraq also motivates Landinfo to look for alternative angles of approach. It is suggested that issues can be corresponding in various parts of Kurdistan, which entitles referring to studies by the Iranian-Kurdish anthropologist Kameel Ahmady who has met LGBT people (including transgender people) from different parts of the area. The testimonies of these people have a strong correlation to those of exposure within families that in the Human Rights Watch report are expressed by men from the southern parts⁷⁰. In the report there is in other words the

ambition to examine real as well as potential risk factors in the lives of LGBT people in the area in their own right, without comparing it to the situation in southern and central Iraq. Landinfo also refrains from comparing the violence against LGBT people with “honor related” violence.

The question of honor

The possibility to separate violence committed by the state against people who transgress gender norms, from violence committed by family members or other non-state agents, does not seem to be a matter of course. Maria Bexelius, consultant in migration and gender issues in Sweden, has pointed out the importance of showing how passivity on the part of the government can play a decisive role in increasing exposure to violence by individuals as ignorance about this can partly explain the Migration Board’s tendency to consider abuses in the so called “private sphere” as isolated criminal acts.⁷¹ The connection of *honor related violence* to the grounds of gender has had some significance in confirming that

8 2007; www.kurdmedia.com/article.aspx?id=14242

A relatively large number of the asylum cases we have come in contact with also include Kurdish men from northern Iraq who claim to be threatened by their own family.

71 | Maria Bexelius, author of *Asylum Law, Gender and Politics—a handbook for gender equality and women’s rights*, published by the Swedish Refugee Advice Center, has criticized the Swedish preparatory works for diverging from both the UNHCR gender guidelines and the principle of international law implying that violations of the right to physical and psychological integrity are equally serious irrespective of the scene of the crime or the character of the perpetrator. In Proposition 2005/06:06 it is stated that, in relation to so called “persecution in the private sphere”, recognition of refugee status should depend on the character of the reasons for the state’s inability or unwillingness to offer protection. It is stated that lack of resources or ineffectiveness are not valid reasons for the unavailability of protection and would thus disqualify a person from refugee status. The text implies a depoliticization of abuses occurring in the so called “private sphere”, which might lead to discrimination in the context of asylum assessments: “If courts do not have thorough knowledge on the hierarchy of gender and how it works together with other power structures, there is a risk that they will hesitate to claim that other countries’ lacking capability to offer protection is a consequence of political measures. And that they instead make the conclusion that it is a matter of lack of resources or inefficiency, resulting in women and LGBT people being denied refugee status.” Maria Bexelius: “Refugee Status with impediments”, [“Flyktningstatus med förhinder”, in Swedish] *Article 14* no 3/2006.

70 | For example, see Kameel Ahmady: “Obscured Existence of Homosexuality and Transsexuality Inside Kurdish Culture; Case Studies of Gays and Lesbians in Kurdistan and Diaspora”, November

the exposure of women within their families is sanctioned by lacking state contributions and legal gaps. Violation of honor undermines masculine authority, and the group's chance to pass according to the rules of society requires counteraction at all levels of society. Gender based violence is violence that is exerted to maintain rigid definitions of what it means to be a man and a woman, desiring and desirable, "active" and "passive" according to prevailing societal structures. This does not automatically mean that it is directed against women, but against those whose expressions do not correspond with what is expected for persons in certain positions in society, hence challenging the naturalness of these norms and facilitating questioning of the status of the dominating group. This affects women the most, as a result of the narrow scope for gender correct behavior in traditional women's roles and their defined subordination in relation to men. But the male superiority is also challenged by men who do not live up to or question masculine dominance.⁷²

While "Honour killings" makes its own heading in the section on LGBT people in the UK Home Office report on Iraq from September 2009 [Lifos 21496], the outlook on honor related violence as gender-based violence in its broader sense is far from self-explanatory in Sweden. Since the notion of "honor" is often thought to be in opposition to the idea of social constructions, and refers to a structure of "natural" gender expressions, it is a complicated issue and the connection seems to be rejected for conservative as well as purely pragmatic reasons.⁷³ Afary and Najmabadi point out that the fight for women's rights has developed simultaneously with the heterosexual socializing process, and that the necessary connection between the

fight for women's and LGBT rights that is a condition for real change is everything but self-evident. Women's rights are conditioned on the acceptance of a masculine structure and subject to sufficient gender conformity. Consequently a dissociation of women breaking norms in a certain manner from the category of "gender deviants" has been necessary, just like homosexuals in the Western world have obtained rights through a dissociation from transgender issues. Excluding aspects of sensitive rights issues that are taboo or even explicitly illegal might be necessary in order to avoid harassment and gain the sympathy from authorities and public that is needed for any work of change.

The complexity of gender related issues also gives reason to fear that faulty interpretations and dangerous simplifications will undermine the understanding of women's specific exposure. In a statement on the report "Refugees and Gender Related Prosecution" [SOU 2004:31], the Swedish Ombudsman against Discrimination because of Sexual Orientation, HomO (today a part of the Swedish Equality Ombudsman, DO) reacts negatively on the description of "honor killings" as a "gender neutral phenomenon"⁷⁴. The Ombudsman insisted that it has very much to do with gender (and thus, women) since "the family's 'honor' to a great extent is supported by how the women are perceived, e.g. in the 'chastity respect', and of how the men succeed in their task of making sure that this chastity is being preserved." The conclusion that including men as potential victims, by the same logic that affect women, would lead to a "gender neutralization" of the problem rather than taking into account an extended importance of gender, easily leads to a reactive acknowledgment of gender as concerning primarily biological sex, and a safeguarding of gender related issues as firstly "women's issues". This results in a more simplified analysis of what it means to maintain masculinity and male dominance.⁷⁵ Gender related

72 | The women's organization Madre emphasizes the necessity in understanding gender-based violence as something that befalls both men and women based on the same logic. See e.g. Yifat Susskind; *Promising Democracy, Imposing Theocracy: Gender-Based Violence and the US War on Iraq*, Madre 2007, part VI, www.madre.org/index.php?s=9&b=24&p=86#sub4.1

73 | Few people at the COI Unit, but also among the human rights activists we have talked to, want to make a definite connection between honor related issues and gender based violence. In many cases since it is considered to per definition only concern women, but among those who are more well-versed also since the notion is not established as such within the cultures that are referred to, which causes some concern for "culture imperialism".

74 | HomO: Remark on the report "Refugees and Gender Related Prosecution", June 9 2004; www.homo.se/o.o.i.s/1829

75 | Information specifically concerning non-heterosexual women is often connected to the grounds of gender rather than sexual orientation. One such example is a shadow report from the Lebanese LGBT organization Helem that in Lifos is linked under the heading "Reports on women's situations in Lebanon from Lebanese authorities, CEDAW and Lebanese voluntary organizations" [Lifos 19112]. In

violence is connected both to a person's gender expression and to biological/legal sex, as the connection between the two determines if a person passes as an "approved" man or woman, and forms the basis of the individual's status in society. An acknowledgement of the fact that men who do not live up to expected masculine norms are exposed on the basis of gender does not reduce the fact that women are exposed to a greater extent, because of the given lower status of the female biological sex, and the fact that women are subject to stricter supervision.

Weighing heavily when it comes to the issue of honor related violence are the reports from the investigative trips that are referred to in the legal standpoint and the reports of Landinfo mentioned above. A Swedish trip during the spring of 2009 aimed at investigating the existence of honor related violence in Lebanon, Syria and the KRG area in northern Iraq.⁷⁶ Considering the uncertainty of whether crimes against LGBT people in these areas can be seen as honor related, and the lack of information on the topic, and lack of contacts, The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights, RFSL, applied to send along representatives, but this was denied. Instead, representatives from the Swedish Red Cross and the Swedish Refugee Advice Centre were invited, but the ambition to procure the information that RFSL inquired was included. The two accompanying organizations produced a report separately from the Migration Board, but all the interviews

response to the specific question from the asylum units on whether men are subject to honor related violence, reasons like apostasy, illicit marriage, and illegitimate sex with women have been exemplified, while the reason "homosexuality" is dismissed by definition [see reply from the Ministry of Foreign Affairs in Damascus, June 2008, Lifos 18844], is declared hard to estimate, [see reply from the Ministry of Foreign Affairs in Aman, February 2009, Lifos 20211], or is exemplified in linked information but excluded in the comment from the Center [Lifos' link compilation on honor related violence towards men in Iraq, Lifos 20376].

76 | These are a few of the countries that most asylum seekers who declare honor related violence as a reason come from. In addition to that, these are countries that can be contacted by authorities and organizations; the situation in Afghanistan and non-Kurdish Iraq, for instance, is hardly less serious, but lacking statistics and authoritative engagement—not to mention the safety situation—is weighed against the need.

and meetings were carried through jointly. This type of combining knowledge is common in other countries, but was unique in Sweden, says Maite Zamacona Aguirre who represented the Red Cross. The representatives from the organizations suggested and presented contacts before the trip, but the program was mainly planned by the head of the delegation from the Migration Board, who at the time was the COI analyst with focus on Iraq at the COI Unit. They met with representatives from the authorities, human rights lawyers and representatives from women's rights organizations, but none of the interviewed had any particular commitment to gender related issues in a wider sense, or for the rights of LGBT people.⁷⁷ Still, the assessment in the report is based on these comments.

After the interviews were put together, the Migration Board concluded in its report that homosexuality (the significance of other forms of deviance from gender norms than explicitly sexual are not commented on) does not concern family honor: "It is socially, culturally, psychologically and religiously unacceptable and banned, but it is not a question of honor. Only a woman's premarital and illegitimate relationship brings disgrace upon a family. Family honor has to do with the girls' virginity." [Lifos 21201, p. 25] According to the Migration Board, a representative for a Syrian women's rights organization points out that lesbian women might be punished within the family, but adds that "no one—neither gay men nor lesbian women—in the country has been killed on the basis of their sexual orientation." [p. 25]

The Swedish Red Cross and the Swedish Refugee Advice Centre formulate themselves a little more carefully, but state that disgrace and honor related issues according to the interviewed is connected to the female sexuality, while homosexuality rather is seen as "deviant behavior". [Lifos 21202, p. 11] The "deviance" is understood as "gender neutral"; something that

77 | The "family oriented" direction within most of the organizations possibly indicate the opposite, see for instance Iraq-Kurdish Harikar: "Harikar is a neutral non-governmental humanitarian organization, which believes that in every aspect of life priority must be given to children and women." www.harikar.org/index.php?page=about&action=mission

in itself does not concern the relation between the sexes and therefore does not imply a concrete threat to founding gender norms. The exception is when this behavior is seen as an expression of “disobedience” on women’s behalf.

This definition of honor related violence does, however, not seem entirely consistent even in these interviews. In interviews with a women’s rights organization and with the prime minister’s counselor in social issues in northern Iraq, it turns out that families punishing a member of the family when “coming out” with their orientation cannot be ruled out. According to the Migration Board this is a result of it being considered a “great sin and against both Islam and Kurdish culture”⁷⁸ [Lifos 21201, p. 43], while it according to the interpretation of the Red Cross and the Refugee Advice Centre is “likely that it is seen as a serious violation of the family’s honor.” [Lifos 21202, p. 40] Exactly what significance punishment on the grounds of “honor” or “sin” respectively have, why the former naturally has more severe consequences, and on what grounds the situation for people affected by violence is evaluated, is not clear. According to the Migration Board, many of the northern Iraqi interviewees point out that “the society is not ready for this question yet.” [Lifos 21201, p. 43] It can be interpreted as an expression of priority, as women’s exposure is such an overriding problem, but also of concern of the consequences of elucidation, considering the powerful backlash that is now being experienced in southern and central Iraq.

As far as honor related killings of women goes, there is proof that the actual occurrence is not evident in official statistics, as these are camouflaged as accidents or suicide.⁷⁹ Considering the documented contempt against LGBT people,

the lack of statistics on killings of LGBT people, indications that such cases are rarely reported [Lifos 21202, p. 9], as well as the suspicion that known honor related violence is just “the tip of the iceberg” [Lifos 21202, p. 9], there is reason to not uncritically account for statements of for example suicide as facts. In the report a case of suicide by self-ignition is mentioned, as the only example involving a transgender person [Lifos 21201, p. 25, Lifos 21202, p. 26]. The story of the Syrian “transsexual boy”⁸⁰ who took his life in such an extreme way after having been assaulted by his brothers, serves to exemplify how “deviance” leads to discrimination and possible abuse, but is not necessarily an immediate life threat. But there is no implication that the story is representative, and no verification of the background to the event. The public story of a deviant ending his/her life in this extreme expression of self-punishment has an obvious significance in confirming the gender structure. There is no way of verifying the case or knowing the background. The story also might not have been so easily accepted had it involved a (non-trans) woman.⁸¹ Maite Zamacona Aguirre declares that she during the trip was surprised at the distinct separation of LGBT and honor related issues, considering the contacts her organization previously has had with exposed people who have asserted such a connection. At the same time, there was no possibility to pass on and deepen the discussions at the time on how these questions are related. In the report by the Migration Board it is evident that questions concerning “LGBT people” are formally asked, separately from the questions considering women’s situation. Maite Zamacona Aguirre confirms that the questions emanated from formal identities such as “gay”, “lesbian”, “bisexual” and “transsexual”, and that the use of defined categories less normalized in these countries created some distance, especially

78 | It is important to emphasize that “honor related issues” is a culturally and not religiously founded phenomenon which, in the areas concerned, is pointed out to occur to the same extent in Muslim and Christian families.

79 | Tasso Stafilidis and Yvonne Ruwaida account for how they during their trip to the Iranian countryside met countless of young people who had never met an LGBT person, but who indicated that there was a suspicion that young people sometimes “disappeared” for this reason. The indication is that something happened to them, the “disappearance” could also for instance be explained by their running away or being sent off, the matter was not investigated further in the report [see p. 21 about the report].

80 | It is not clear here whether it is actually a woman-to-man-transsexual who is referred to, or if the wording is incorrect and it actually concerns a transsexual woman (or transgendered person).

81 | According to UK Home Office, 195 of 255 reported cases of “honor related killings” of women in the KRG area were done by them being set on fire. Another 200–250 cases of women setting themselves on fire—possible camouflaged murders—were added during the first six months of 2007. “Operational Guidance Note: Iraq”, October 2008, paragraph 3.10.4, p. 16, Lifos 20969.

since there was no time to develop the issues and problematize the answers.⁸² In the separate report from the Red Cross and Refugee Advice Centre, however, there are no remarks on such weaknesses [Lifos 21202, p. 5].

The previous COI analyst responsible for the Middle East, who also led the delegation, is under the explicit impression that violence towards LGBT people lacks any relation to the honor issue whatsoever. His colleague at the Migration Board, Rasool Awla,⁸³ who also participated, claims to support the conclusions that are made in the report, and states that sufficient efforts were made in the preparations. According to him, the fact that questions on LGBT issues were asked at all during the trip was because “so many journalists, debaters, and scientists in the Western world claim that there is such a connection.” Awla has a unique connection to the trip’s topic in question, himself being Kurdish with a northern Iraqi background and having specifically studied women’s participation in the development of democracy in the area for quite some time. He is also involved in the Swedish network Men Against Honor Related Oppression⁸⁴ and claims to have experience from debating issues concerning culture interactions, Islam’s outlook on gender roles, sexuality and marriage, and honor related violence. As these issues are principally dealt with from the starting point of assumed “heterosexuality”, his studies do not offer knowledge on the situation of LGBT people in the area, nor contacts in order to obtain such information. Previous to the trip, he therefore sent out a request per email to the LGBT immigrant group Homan in Gothenburg,⁸⁵ and contacted a homosexual Iraqi man in Stockholm in

hope of getting some information. When Homan did not return with any comment, and the man asked had no contacts to give, it was stated that “LGBT contacts” were unavailable.

The fact that contacts are difficult to obtain for the Swedish delegation in northern Iraq is also confirmed by informed homosexual Kurdish Iraqis during the work with this study. Our interviewee Hallo, who received permanent residency 2009 through his relationship with a Swedish citizen, points out that it was not until he came to Sweden that he through the Internet succeeded to get in contact with a small group of men in his home district Sulaymaniyya who would talk about their situation. Hallo says that the loose network was dissolved just as fast, when one of the men was murdered by his father. This, he states, was confirmed by a relative who visited the family’s house. After this a complete silence settled. Hallo states he can never return because of expressed threats from his family, a reaction he means is to expect for “effeminate” men seeking relationships with other men. For him the connection to honor related issues is as clear as it is foreign to those interviewed in the Migration Board’s report. He claims that a situation where the family is being exposed to others’ whispering is unacceptable to many, and that “femininity” in a man can lead to him losing his human dignity. The fact that Hallo has this insight does not mean that he has any open contacts in his home country to refer to visiting authorities.

Although Rasool Awla does not want to relate violence towards women to possible violence towards LGBT people or men in particular, he confirms the serious disgrace when a “non-issue” such as the sexual relation between two men is exposed. In the city where he grew up there were rumors of sexual interactions between young men, and of a “secret” relationship between a man from the upper class and a married man with children—relations that did not call for action as long as they did not intrude on the general structure:

“Everybody pretended it didn’t exist. The strategy of not talking about it and therefore not admitting it means not having to act. It’s just like when a family loses its honor if a daughter has a love affair: it’s not

82 | The statement that “It was not possible to get any information on bisexuals and transgender people during the trip, as the phenomenon seems to be, practically, unknown to people in the Middle East” [Lifos 21201, p. 25], signals that there might have been a conceptual problem, and that issues concerning transgression of gender norms have not been raised in their own right.

83 | Rasool Awla was, starting during the fall 2009, temporarily employed in lieu of the permanent COI analyst responsible for the Middle East. Starting spring 2010 and until reappointment, the researchers are alone responsible for the area.

84 | “Män mot hedersförtryck”; www.mmhf.se

85 | Homan, <http://homan.se>, is an immigration group working for the rights of LGBT people. The group is pursued idealistically and lacks formal administration and staffing.

until the people around them know that the family has reason to act on the basis of our cultural rules and norms. Because we live for others more than we live for ourselves. That makes the pressure from the others great. Some can't withstand it and react by killing the girl. I am not saying you kill homosexual men when it becomes publicly known, but that's when you have to act in one way or another."

The relative protection of silence is reduced when issues considering norm transgression are made evident. Awla does not want to speculate in what consequences the "duty to act" might have for LGBT people, and refers to the results of the interviews during the investigative trip. He claims that the lack of known cases is the most valid foundation for a general risk assessment.

After pressure from RFSL, the Migration Board in November 2009 introduced an additional statement in the already published report, admitting that "[t]he part of the investigation that is about LGBT people is lacking in the sense that no LGBT individual or representative for an organization working with LGBT issues has been interviewed. The delegation has not been able to map and assess if and in what way LGBT people are being persecuted, harassed or punished, nor whether authorities or other figures can provide them with protection." [Lifos 21201, p. 15] The clarification emphasizes the importance of initiated sources for reliable knowledge on the situation of LGBT people. However, the conclusion of the report that "[n]one of the interviewed [...] has heard of anyone being murdered on the basis of sexual orientation or because he or she has performed homosexual acts", is still the basis for the recommendation of returning refugees to the KRG area given by the Director for legal affairs at the Migration Board [Lifos 21656, p. 2]. This does not exclude the fact that individuals from the area are given asylum on these grounds. However, it does reduce assault to isolated occurrences, while disregarding structural repression of the kind that befalls women overstepping traditional rules.

When Norwegian Landinfo together with Danish Udlændingsservice in July 2009 made a separate investigative trip that included northern Iraq [Lifos 21178], questions as to whether violence against LGBT people could be seen as honor related issues were not included at all, as the topic was defined as a women's issue. LGBT issues appear in a separate section, where it is stated that "homosexuality" is considered "shameful" and "seriously immoral" in the KRG area [p. 75].

The report's account of separate perspectives from organizations that are familiar with the question of honor related violence in northern Iraq, illustrates in a significant way that interpretations of mechanisms behind gender violence can give different results. One women's rights organization claims the violence decreases concurrently with the raised level of awareness, and today occurs especially in more traditional areas where the tolerance for norm deviation is lower, which is supported by the official statistics. Another women's rights organization claims the real picture is not represented in available statistics and that honor related crime as a matter of fact is more common in modern environments, such as the modern Sulaymaniyya, where the demand on women's freedom is increasing and the family's role is under immediate threat [p. 44–45].

The latter understanding implies that there is no natural development towards increased rights for groups distinguished from society; that rights are always carried through at high risk, and that struggle against patriarchal structures necessarily must be pursued on several levels at the same time. Traditions with strict limitations when it comes to the rules for relationships might have room for tolerance of certain practices in order to keep them a marginal issue. Such tolerance is based on the disassociation of the sexual act from relationship, orientation and identity, as well as a disassociation of tolerable "deviant" practices from those deemed a threat against societal (gender) norms. Rights for groups that are tolerated on the terms of the norm therefore risk to be positioned against each other, and the rights of those tolerated at the margin against association with the intolerable: the rights of "women" against "LGBT people", "men who have sex with men"

against “gender deviants”, “transsexuals” against “non-heterosexuals”, “homosexual men” against “lesbians”, and so on. It is therefore important to understand how the grounds of sexual orientation cannot be distinctly separated from the grounds of gender, and how gender related issues concern more complicated aspects of human expression than the biological bodily prerequisites.

The legal standpoint made by the Migration Board concerning homo- and bisexuals in Iraq estimate sexual relations between men to be unproblematic “as long as it is hidden”, while specific exposure is ascribed to non-heterosexual women despite the statement that “[l]esbians are completely invisible” [Lifos 21656, p. 2]. Sexual orientation is seen as coinciding with sexual practice, without consequences for expression for a person’s involuntary general expression. The ban on sexual acts or relationships between women is assumed to depend completely on the expected sexual passiveness in the woman’s role, while MSM is presumably tolerated as expression of sexual excess, which signifies the “natural” masculine force when unrestrained. That this is often the case does contradict the fact that male sexual relationships might cross the line as soon as masculine authority and obvious boundaries between solid gender roles are questioned. To illustrate all relevant aspects in the assessment of LGBT people’s exposure and incentive for persecution, cross-references are needed; between information concerning the situation of women and that of LGBT, between attitudes to sexual orientation and gender norm transgressing behavior, and how rules for dress and general conduct is regulated in practice, within the family, in society and by the authorities.

Summary and sources

The fact that attention is not paid to LGBT refugees in the world, that the stories of LGBT people are rarely heard, included or taken into account in COI, as well as the insecurity and unfamiliarity concerning the questions within the COI Unit and the Migration Board, shows the importance of raising these questions specifically. The European Union Agency for Fundamental Rights claims that the degree of truth in asylum seekers' information on their orientation to a large extent is subject to suspicion within the European asylum authorities. This might stand in the way for a just assessment and reduces the focus and demands on the COI.⁸⁶ COI is important also in order to acknowledge that people who differ from sexual/gender norms in society exist, and have needs that often pose a threat to the societal norm. The idea that the risk for LGBT people can be estimated based on shallow information on legislation and does not require insight in real dynamics behind gender based violence and discrimination can easily be supported in the existing COI in Lifos. The lack of inquiries from the asylum units concerning LGBT related information could be explained by the low expectations of a quick response and substantial information, but also by the fact that focus in the assessment of cases concerning sexual orientation is not necessarily on the details of COI.

The COI Unit's role as information-interme-

diary concerning LGBT related issues is at times unclear, as it in practice revolves mainly around collecting, approving and linking documents from other information systems, without making any commentary or analysis. The problem with the lack of information in the Migration Board's database Lifos is partly known, and there are some uncertainties concerning how the COI should be presented and developed in the future. An increased focus on country profiles implies a slow update, and today there is no guarantee that LGBT related issues are treated in them at all.⁸⁷ Several at the center are of the opinion that the model with specialized documents, such as that by Norwegian Landinfo, would be preferable in order to cover special issues in earnest, but this would require resources of quite another caliber. A study by the Migration Board's COI system on behalf of the Swedish Refugee Advice Centre in 2007 showed that the users saw both risks and advantages with prepared analyses as well as with "neutral" compilations of information from the COI Unit. Thorough analyses might reduce the users' incentive to make independent assessments. The current system with "neutral" collecting of documents, however, tempts users to regard the information as "secure" and sufficient, with the consequence that documents are apportioned disproportionate weight. This might cause users to stick with what they find in Lifos, or at least regard

86 | FRA—European Union for Fundamental Rights, 2009: "Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States, Part II—The Social Situation", p. 97; http://fra.europa.eu/fraWebsite/attachments/FRA_hdgso_report_Part%202_en.pdf

87 | In the most recent published country profile (at the time of publication of this report) on Somalia [Lifos 22041], there was no information included concerning LGBT people's situation, even though Somalia has laws imposing imprisonment or, in the southern parts, death penalty for same-sex sexual actions.

them as more “true” than others, or to simply see the system as unhelpful with its limitations.⁸⁸

The link compilations on certain issues that are put together on request can serve the important purpose of summarizing and giving a survey of the information when it is sufficiently extensive. This kind of document, however, requires more regular updates and greater variation of sources than what is the case today.⁸⁹

Some conclusions and recommendations from the study regarding the work at the COI Unit follow below:

- Easily updated link compilations with information about the situation of LGBT people help to give a useful overview for the users. The development of certain guidelines, or a checklist as a starting point in the search for information concerning sexual orientation and gender, would give COI analysts and researchers the prerequisites to do active searches in order to cover all basic relevant aspects. An open checklist with an account of guidelines also facilitates a review of coverage and balance for the users.

- Lack of qualitative information concerning the conditions for LGBT people is a problem when it comes to most countries where attitudes are negative. As a result, the published information is general, obscure, based on a few unbalanced sources, and often not up to date. Inadequate or complete lack of information about a situation might be seen as an implication that there are problems. The

account of unverified information about assaults is therefore necessary, and particularly justified in cases when it is extensive or differs from reports from authorities, organizations without specific insight in the issues at hand, or diplomatic missions without contact with the people concerned.

- In order to increase the reliability of the information, an increased ambition to achieve balance in the reports from authorities, media, human rights institutions and LGBT organs is required. However, “LGBT sources” do not always represent all LGBT people, and accounts of the situation from one perspective might be totally different from that of another. Spokespersons for men who have sex with men might for instance lack commitment to or knowledge about issues concerning women and transgender people, or even for men who have less chances to pass according to strict gender rules. This gives reason to work actively to include more voices from a LGBT perspective.

- Observing how notions and terms are used in the COI is important to not make incorrect generalizations or claims of absent knowledge for example concerning “LGBT people”, “transgender people”, and “homo- and bisexuals”. Speaking of *men having sex with men*, *MSM*, is appropriate when only the sexual conduct of men is taken into account, with no consideration of other groups, or of the different aspects of identities and orientations within such a group. The use of terms such as *homosexuals* and *LGBT people* require covering more aspects of norm transgressive identities.

- Information concerning LGBT people is often focused on men’s possibilities to have same-sex sexual relations, a focus that can render other important norm transgressive aspects invisible. “Tolerance” of MSM is often reserved for those who generally pass well in society and contribute to uphold the basic power structures. Increased focus on transgression of gender norms, including transgender related issues, and a connection between the asylum grounds of gender and sexual orientation, is required when giving an account of LGBT people’s situation.

88 | Helge Flärd: “The Use, Misuse and Non-use of Country of Origin information in the Swedish Asylum Process”, Swedish Refugee Advice Centre, September 2007, p. 40; www.sweref.org/content.aspx?contentID=599

89 | See for example the Migration Board’s compilation of “The Situation of Homosexuals in the Republic of Kongo”, August 2009, Lifos 21271. The reference of three sources with shallow information (ILGA, USSD, The Swedish Ministry of Foreign Affairs) does not contribute with anything beyond the already existing information in Lifos. In fact, more detailed information can be found in an excluded UK Home Office report, that for instance questions and problematizes the claim that homosexuality is “legal” in the country. This claim is made explicitly by the USSD and The Swedish Ministry of Foreign Affairs, with support from the ILGA report “State-Sponsored Homophobia” where the Republic of Kongo is not included as a problem country.

■ A distinct cross reference between sections concerning the situation of LGBT people and information on women's rights, marriage and divorce, sex work, HIV/AIDS, the right to freedom of expression and assembly, as well as sexual moral, outlook on gender roles and family life in general, is important. Information on weak rule of law, occurrence of arbitrary arrests, treatment in prisons, etc, is particularly relevant when evaluating the situation for people with lower protection value in society, whose identities are seen as deeply immoral or illegal.

■ Information concerning discrimination that does not appear serious enough to be considered persecution, or that goes beyond the focus of "the norm's attitudes to LGBT people", can easily be disregarded as irrelevant. Information about "advantages" for "homosexuals", however, is found in the COI and displayed in asylum verdicts with no obvious relevance for the actual case, which shows that the same demands of relevance are not made when it comes to information that speaks against vulnerability. Considering that the accumulated effect of extensive discrimination can amount to persecution, all aspects of discrimination should be considered relevant COI. This particularly concerns discrimination of LGBT people who are often subject to indirect exclusion. Not mentioning or acknowledging the existence of unwanted identities and lifestyles might be the most efficient discriminatory strategy. Relative "advantages" for some within a norm deviating group might in fact serve to create dissociation from the others, which can increase the pressure on and reduce the chances of acceptance of those excluded.

■ Education in gender related issues at the COI Unit, as well as increased opportunities to discuss different experiences in handling information for the various geographical and cultural areas, is important in order to bring life to the issues. An extended cooperation with external experts would facilitate updating of sources and contacts as well as regular check-ups for balanced and updated information. Contact with outside expertise is also of great importance before investigative trips to areas where the issues are sensitive.

Sources and contacts

[Information from January 2010, addresses updated April 20 2011]

The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights, RFSL, has intensified its international work in recent years with particular engagement in for example Uganda, Indonesia and Moldavia, through bilateral projects. In cooperation with leading LGBT organizations in Holland, Norway and other countries they have access to more collaborative projects in many African and Asian countries. Since three years back, RFSL also pursues courses within the International Training Program (ITP) in collaboration with the Swedish Association for Sexual Education, RFSU, where human rights activists and authorities are educated in human rights work with focus on LGBT related issues. RFSL is also on the board of ILGA, and ILGA's women's secretariat is located in Stockholm. RFSL publishes country analysis information for 41 countries at www.rfsl.se/?p=2517

International Lesbian, Gay, Bisexual, Trans and Intersex Association, ILGA, has no less than 670 member organizations and produces updated reports for individual countries; www.ilga.org

International Gay and Lesbian Human Rights Commission publishes news reports as well as regular country reports from the whole world; www.iglhrc.org

UK Lesbian and Gay Immigration Group is a support organization for refugees on the grounds of sexual orientation and gender identity in Great Britain. The group has a counseling commission for the UK Home Office and review their reports; www.uklgig.org.uk

Organization for Refuge, Asylum and Migration, ORAM, is a recently started support organization for refugees on the grounds of sexual and gender related violence. So far the report

“Unsafe Haven: The Security Challenges Facing Lesbian, Gay, Bisexual and Transgender Asylum Seekers and Refugees in Turkey” [June 2009] has been published, which calls attention to the risk situation for LGBT people who await recognition of refugee status in Turkey.

www.oraminternational.org

Human Rights Watch has a specific program for LGBT people’s rights and also produces less country specific information of great importance for the understanding of LGBT related issues. “Together, Apart: Organizing around Sexual Orientation and Gender Identity Worldwide” [June 2009] is in itself an example of the value of alternative information retrieval, where activists on different levels through email questionnaires contribute to a survey of issues relevant for LGBT people in separate parts of the world.

www.hrw.org/en/reports/2009/06/10/together-apart

Amnesty International publishes theme reports concerning the situation for LGBT people. The report “Love, Hate and the Law: Decriminalizing Homosexuality” [July 2008] focuses on different ways of criminalizing LGBT people through moral codes that among other things can be used to heighten moral panic, for example in Iran, Nigeria and Sudan;

[www.amnesty.org/en/library/info/](http://www.amnesty.org/en/library/info/POL30/003/2008/en)

POL30/003/2008/en

www.amnestyusa.org/lgbt-human-rights/about-lgbt-human-rights/page.do?id=1106573

Foreign court orders in asylum cases concerning LGBT people are of great importance to exemplify issues, but particularly when they contain important COI. A type example is a case concerning Afghanistan from January 2009, containing unique information from a number of experts.

“AJ (Risk to Homosexuals) Afghanistan v. Secretary of State for the Home Department, CG” [2009] UKAIT 00001, United Kingdom: Asylum and Immigration Tribunal / Immigration Appellate Authority, 5 January 2009. Available at: www.unhcr.org/refworld/docid/4964c06b2.html

GlobalGayz is a travel and culture website that offer information about the situation for LGBT people all over the world, through news reports but also cultural studies. www.globalgays.com

PinkNews claims to be “Europe’s largest gay news service”; www.pinknews.co.uk

365gay.com is the American equivalent; www.365gay.com

The activist network **Gays Without Borders** offer a link compilation; gayswithoutborders.wordpress.com

The Middle East

Arabiskt initiativ—Arab initiative—is a Swedish organization that work for cooperation between European and Arab LGBT groups; www.arabinitiative.org

During the summer of 2009 the Danish organization **Sabaah** arranged the first conference for LGBT related networks, organizations and private persons from the Middle East and North Africa; www.sabaah.dk

Gay Middle East; www.gaymiddleeast.com

Ahbab; www.glas.org/ahbab

In the Middle East there are four officially registered LGBT organizations, all of them in Israel (for the Palestinian areas) and in Lebanon; the others lack official recognition. Here are a few organizations that have official websites.

THE PALESTINIAN AREA | **Al-Qaws** is a LGBT project linked to Jerusalem’s Open House; www.alqaws.org/q and the women’s organization **Aswat** has its base in Haifa; <http://www.aswatgroup.org>

LEBANON | **Helem**; www.helem.net and **Meem**, with focus on non-heterosexual women and transgender people; www.meemgroup.org

IRAQ | **Iraqi LGBT** is Iraq's official LGBT organization, coordinated by Ali Hili from London; iraqilgbtuk.blogspot.com

IRAN | **Iranian Railroad for Queer Refugees** is a Canada-based support organization for Iranian LGBT refugees that publishes news, Iranian LGBT magazines and information on current asylum cases; www.irqr.net

SYRIA | **Syrian Same-Sex Society Network**; www.ssss-net.com

TURKEY | **Kaos GL**; news.kaosgl.com and **Lambda Istanbul**; www.lambdaistanbul.org

Africa

Behind the Mask publishes information on LGBT rights in Africa, with news articles and reports in separate countries; www.mask.org.za

African Commission on Human and People's Rights includes information on LGBT rights; www.achpr.org

Pan Africa ILGA is a compilation of 41 organizations in Africa; africa.ilga.org

Coalition of African Lesbians is a network for African non-heterosexual women; www.cal.org.za

African Veil; www.africanveil.org/countriescovered.htm

KENYA | **Gay Kenya**; www.gaykenya.com, **Gay and Lesbian Coalition of Kenya**; galck.org, **Ishtar MSM**; www.ishtarmsm.org, and **Minority Women in Action**; www.minority-women.org

GHANA | **Gay Ghana**; www.gayghana.org

UGANDA | **Sexual Minorities Uganda, SMUG**; www.sexualminoritiesuganda.org, **Freedom and Roam Uganda**; www.faruganda.org and www.icebreakersuganda.org

ZIMBABWE | **Gays and Lesbians of Zimbabwe**; www.galz.co.zw

Europe and the Former Soviet Union

ARMENIA | **Pink Armenia**; www.pinkarmenia.org/en

BELARUS | **Gay Belarus**; www.english.gay.by

ESTONIA | **Glik**; www.gay.ee [not in English]

LATVIA | **Mosaika**; www2.mozaika.lv

LITHUANIA | **Lithuanian Gay League**; www.lgl.lt

MOLDAVIA | **LGBT.MD**; www.lgbt.md/eng

POLAND | **Campaign Against Homophobia**; world.kph.org.pl/?lang=en and **Lambda Warszawa**; www.lambdawarszawa.org

ROMANIA | **Accept**; accept-romania.ro/en

RUSSIA | **Gay.ru**; english.gay.ru and **Gay Russia**; www.gayrussia.ru/en