



The All Party Parliamentary Group on
Global LGBT Rights

All Party Parliamentary Group on Global LGBT Rights

The UK's stance on international
breaches of LGBT rights

April 2016

The All Party Parliamentary Group of Global LGBT Rights

The All Party Parliamentary Group on Global LGBT Rights was founded in June 2015 to advance LGBT rights around the world. We provide a forum for parliamentarians and organisations across the public, private and third sectors to work together to champion LGBT rights and push back against abuse and discrimination. We principally focus on international LGBT rights but include domestic issues within our remit.

The APPG is supported by MPs and Peers across the political parties. Our Patron is the Speaker of the House of Commons, The Rt Hon John Bercow MP.

Chair

The Rt Hon Nick Herbert MP – Arundel & South Downs – Conservative

Vice-Chairs

Baroness (Liz) Barker – Liberal Democrats

Lord (Michael) Cashman – Labour

Caroline Lucas MP – Brighton Pavilion – Green

Stewart McDonald MP – Glasgow South – SNP

Treasurer

Lord (Ray) Collins of Highbury – Labour

Secretary

Ben Howlett MP – Bath – Conservative

Table of Contents

Foreword.....	4
Recommendations.....	6
Introduction	8
Chapter 1: The scale, character and impact of breaches of LGBT rights around the world	10
International human rights jurisprudence	10
Criminalisation	11
Violence.....	14
Freedom of expression, assembly and association	17
Health	18
Refugee and asylum	20
Chapter 2: The economic costs of discrimination	22
The costs to individuals	22
The costs to business	25
The costs to the economy	26
Chapter 3: The nature of recent UK responses to these breaches of rights and the impact and efficacy of such responses.....	29
Foreign and Commonwealth Office	29
Department for International Development.....	35
Home Office	37
Chapter 4: Guidelines from around the world of successful interventions in response to these breaches of rights	40
Supporting local agents of change	40
Supporting incremental change	42
Working through multilateral forums	43
Supporting diverse international leadership.....	45
Aid conditionality and travel bans.....	45
The role of faith communities	47
Chapter 5: The role of the private sector.....	49
Private Sector	49
Chapter 6: The role of the UK government.....	52
Co-ordinated and consultative strategy.....	52
Foreign and Commonwealth Office	52
Department for International Development.....	53
Home Office	54
Devolved administrations	55
Chapter 7: The role of the APPG and UK parliamentarians.....	56
Scrutiny, oversight and the use of parliamentary mechanisms	56
Inter-parliamentary relationships and forums.....	56
Developing relationships with other stakeholders	57
Acknowledgements	59

Foreword

Across the world lesbian, gay, bisexual and trans (LGBT) people face ongoing, serious and often profoundly concerning violations of their civil, political and economic rights. As a major economy, a country with a deep commitment to human rights, and having itself legislated to ensure full equality for LGBT people, the UK is in a powerful position to help prevent such abuses.

But while the moral case is clear, the responses needed are often complex. Speaking out about these abuses is important – but condemning is not enough. We need to ensure that the stances taken in the UK, whether by the government, politicians, civil society or businesses are effective, and also that interventions are not counter-productive.

The policy options available to combat discrimination against LGBT people globally cross a wide range of UK government responsibilities and engage the functions of a number of UK government departments. Addressing the persecution faced by LGBT people also requires the involvement of a wide range of stakeholders, including, the private sector, academics, and national, regional and international bodies.

The British government has been increasingly active in its support for the rights of LGBT people both domestically and through foreign and international development policy. It is clearly working to make a difference in the lives of LGBT people across the world. This commitment and ambition is to be applauded, but more needs to be done to meet it and to ensure that government actions are effective.

In particular this inquiry has found:

- That there is a pressing need for the development and implementation of a coherent, co-ordinated cross-Whitehall strategy for promoting equality for LGBT people around the world.
- That departmental commitments to support the rights of LGBT people need to receive meaningful investment and political support to ensure effective implementation, including in the Department for International Development, the Foreign and Commonwealth Office and the Home Office.
- That there is an important role for business in protecting and advancing the rights of LGBT people globally.

In all of this, however, it is vital for stakeholders in parliament, government, the private sector and civil society to take their lead from local LGBT communities. Successful and long lasting change comes from within countries. While there is role for external pressure from international leaders, businesses, states and multilateral forums, it needs to be allied to national strategies that have civil society support and operate within specific political and cultural contexts.

While progressing LGBT rights globally can present a daunting range of challenges, we need to be aware that there is a widening toolbox of policy interventions available. Some may be appropriate in some contexts but not others. In some contexts, emphasising decriminalisation makes sense, while in others focusing on the rule of law, on economic costs, on opposition to violence or on health can gain more traction. Different regional and national interventions require different approaches, different allies and engage different regional bodies.

In order to discern which policies or interventions are most effective we must rely on the expertise, advice and analysis of local actors, LGBT organisations and communities, and work to support the priorities and strategies of national and regional LGBT civil society.

We recognise that parliamentarians have an important role to play in promoting effective response to the abuse of LGBT rights. The APPG was formed in order to give more focus to these efforts. We have valued the input of civil society organisations into our inquiry, and we look forward to working with them and with fellow parliamentarians around the world where we can find common cause. Abuses of LGBT people cannot be allowed to stand. We hope that this inquiry and its findings will help to drive action on this important issue.

The All Party Parliamentary Group on Global LGBT Rights
April 2016

Recommendations

1. A co-ordinated cross-departmental strategy

- A cross-departmental strategy for promoting equality for LGBT people globally needs to be developed, across the Foreign and Commonwealth Office, Department for International Development, Government Equalities Office and Department for Business, Innovation and Skills.
- A stakeholder steering group, drawn from civil society, business and other stakeholders should be established to help guide the development and implementation of this strategy.
- A clearly accountable figure with the responsibility for co-ordinating and implementing a cross Whitehall strategy should be identified.

2. Foreign and Commonwealth Office

- Strategic and judicious high-level leadership is needed to champion the rights of LGBT people globally, particularly in response to deteriorating situations.
- Practical support for local LGBT organisations, both financial and political, should be encouraged and the exchange of good practice systematised.
- Punitive measures, including public censure and the threat of banning persistent supporters of discriminatory measures from the UK, should remain on the table, in consultation with local civil society organisations.

3. Department for International Development

- A meaningful investment in internal capacity is needed to implement DFID's new approach to LGBT rights effectively.
- New funding mechanisms should be established to support LGBT human rights and civil society organisations explicitly.
- The development of specific technical training and guidance for key advisory staff, such as Social Development Advisers, and those with programme management responsibility, is needed so that they are able to implement this policy effectively.
- Sexual orientation and gender identity should be incorporated into the performance indicators used in the Multilateral Aid Review.
- The efficacy of contributing to the Global Equality Fund needs to be assessed.

4. Home Office

- Data on the number of asylum cases made on the basis of sexual orientation and gender identity publicly should be made available.
- The decision-making process needs to be improved in assessing LGBT asylum cases through improved staff training, potentially appointing specialist caseworkers for LGBT asylum cases.
- The policy guidance on gender identity claims needs to be reviewed.

5. The Private Sector

- The private sector should establish supportive workplace policies that create a culture of tolerance and provide a safe environment for LGBT employees.
- The private sector should support local LGBT civil society organisations through corporate giving programs and space-sharing relationships to provide a safe environment for them in non-LGBT friendly locations.
- Where appropriate, the private sector should take a visible stance in support of the rights of LGBT people, in conjunction with existing civil society strategies and priorities.

6. APPG LGBT and Parliament

- Scrutiny and oversight of government policy and action on global LGBT issues should be maintained.
- Inter-parliamentary forums and bilateral relationships should be utilised to build relationships and support action on LGBT issues in other countries.
- The APPG LGBT should work with civil society organisations both in the UK and internationally and utilise its convening power to highlight issues and agree effective responses.

Introduction

1. The APPG on Global LGBT Rights (APPG LGBT) was established in June 2015 by a cross-party group of Members of Parliament and Members of the House of Lords. The group aims to support and enhance Lesbian, Gay, Bisexual and Trans (LGBT) rights around the world and to ensure that the UK, other governments and civil society collectively adopt the most effective policies to champion and protect such rights.

2. As its first major initiative the APPG LGBT has worked to build an understanding of the most effective responses to breaches of LGBT rights through an inquiry entitled: “The UK’s stance on international breaches of LGBT rights.” This report represents the findings of this inquiry.

3. We announced the inquiry and terms of reference on 20 July 2015, invited submissions from interested stakeholders with experience of working on LGBT rights from civil society, academia, and the private sector.¹

4. The inquiry welcomed submissions that addressed:

- The scale, character and impact of breaches of LGBT rights around the world;
- The nature of recent UK responses to these breaches of rights and the impact and efficacy of such responses;
- Examples from around the world of successful interventions in response to these breaches of rights;
- The broader role of the UK government in response to international LGBT issues;
- The role that civil society, including the private sector and NGOs, can play in enhancing, supporting, or protecting LGBT rights;
- The role that UK parliamentarians can play in championing LGBT rights worldwide and responding when such rights are threatened; and
- The role of the international community in reversing the criminalisation of homosexuality.

5. In this report, sexual orientation refers to “each person’s capacity for profound emotional, affection for and sexual attraction to, and intimate sexual relations with, individuals of a different gender or the same gender or more than one gender.”² The term gender identity refers to “each person’s deeply felt internal and individual experience of gender, which may or may not correspond with sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.”³

6. This report uses the term LGBT (lesbian, gay, bisexual, trans). It does so however, with the acknowledgement that there are distinctions between the issues faced by the communities that make up the term. It also recognises that the term LGBT does not necessarily capture the full range of global identities and practices that share similar struggles. When referring to research that is specific to lesbian, gay and bisexual people, this report uses the term LGB.

¹ APPG on Global LGBT Rights, “*The UK’s stance on international breaches of LGBT rights – Terms of Reference*”, 20 July 2015. <http://www.appglgbt.org/#!/publications/cghg>

² See Yogyakarta Principles: *Principles on the application of international human rights law in relation to sexual orientation and gender identity*, March 2007.

³ Ibid.

7. While the inquiry remained open to submissions concerning all aspects of the LGBT community internationally and domestically, it does not deal explicitly with the current challenges facing trans people in the UK. The Women and Equalities Committee has recently held an inquiry into equality for trans people in the UK. We welcome the publication of the Select Committee's report and endorse its recommendations wholeheartedly.⁴

8. Our inquiry considered submissions from LGBT asylum and refugee activists and organisations. While the main focus of this inquiry has been on the international situation for LGBT people, it was felt that the issues facing LGBT asylum seekers are closely linked to international concerns.

9. The APPG LGBT did not propose to address the challenges facing intersex people in the UK or globally.⁵ We are aware that intersex people face a number of challenges in terms of accessing rights, equality and appropriate medical care in the UK and abroad. While many of the issues facing intersex people intersect with the concerns addressed in this inquiry, we felt that due to their distinctiveness they require an approach that is beyond the scope of the group. We however remain open to investigating the issues facing intersex people in the future.

10. We received a number of written submissions from UK and international civil society organisations, individual activists, academics and businesses, which are available to view on the APPG LGBT website.⁶ We held three oral evidence sessions with representatives from civil society, academia and the private sector. We conducted a number of individual interviews, with activists and academics drawn from the global LGBT movement. We are pleased to acknowledge these contributions and to present our findings in this report.

⁴ The Women and Equalities Committee, *Transgender Equality: First Report of the 2015-16 Session*, January 2016. <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/390.pdf>

⁵ Intersex is a general term used for a variety of conditions in which a person is born with ambiguous primary physical sexual characteristics.

⁶ www.appglgbt.org

Chapter 1: The scale, character and impact of breaches of LGBT rights around the world

11. Lesbian, gay, bisexual and trans people continue to face widespread criminalisation, violence, discrimination and exclusion across the world. Despite progress in many parts of the world, serious human rights violations remain a feature of the lives of LGBT people.⁷ While international human rights jurisprudence increasingly recognises the rights of LGBT people as human rights, criminalisation, violence, social stigma and exclusion from services continue to leave LGBT people more vulnerable to rights violations and less able to contest such violations. These rights violations span multiple spheres, including civil, political and socio-economic rights.

International human rights jurisprudence

12. A growing body of international and national human rights jurisprudence increasingly recognises the rights of LGBT people as legitimate human rights. In barely 30 years, there has been remarkable progress in recognising and responding to breaches of human rights experienced by LGBT people. The jurisprudence continues to develop, however, especially for trans and intersex persons and in the recognition of same-sex partnership and parenting rights. However, it is now widely established that:

- a. the criminalisation of consensual, private sexual acts between adults of the same sex is a breach of the right to privacy;
- b. States are obliged to prevent and adequately respond to incidents of discrimination, violence and harassment committed against LGBT people, and provide protection to those escaping persecution on account of their sexual orientation and/or gender identity;
- c. gender and sex diverse people have a right to have their lived identity correctly reflected in official documents.

13. The criminalisation of same-sex sexual conduct between consenting adults in private is a breach of the right to privacy contained in article 17 of the International Covenant on Civil and Political Rights and article 8 of the European Convention on Human Rights.⁸ As highlighted by the Human Dignity Trust, 58 criminalising jurisdictions are a party to the ICCPR.⁹

14. Several national superior courts have recognised and affirmed this principle domestically or found such criminalisation to be inconsistent with other human rights, such as the right to equality.¹⁰ However, this trend has not been universal: two recent decisions by superior

⁷ Report of the Office of the United Nations High Commissioner for Human Rights, 'Discrimination and violence against individuals based on their sexual orientation and gender identity', 4 May 2015.

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_23_en.doc

⁸ *Toonen v. Australia*, UN Human Rights Committee (HRC) Communication No. 488/1992, 31 March 1994; *Dudgeon v United Kingdom* (1981) 4 EHRR 149; *Norris v Republic of Ireland* (1988) 13 EHRR 186; *Modinos v Cyprus* (1993) 16 EHRR 485.

⁹ Human Dignity Trust, *Written Evidence for the All Party Parliamentary Group on Global LGBT Rights, on the UK's stance on international breaches of LGBT rights*, 2015.

¹⁰ See for example *National Coalition for Gay and Lesbian Equality v Minister of Justice* (1999) 1 SA 6; *Secretary for Justice (HK) v Yan Yuk Lung Zigo* [2007] HKCFA 49; *Lawrence v Texas* 539 US 558 (2003) and *McCoskar v The State* [2005] FJHC 500.

courts in Singapore¹¹ and India¹² have affirmed the validity of colonial-era laws criminalising such conduct.

15. Violence, harassment and discrimination against LGBT people have been recognised as capable of engaging the prohibition against torture, and inhuman and degrading treatment in article 3 of the European Convention on Human Rights.¹³ Furthermore, persecution on the basis of sexual orientation or gender identity is widely recognised as a basis for claiming protection under the 1951 Refugees Convention (as amended by the 1967 Refugees Protocol).¹⁴ Where there is a risk of such maltreatment, LGBT persons are protected by the fundamental principle of *non-refoulement*, which forbids a State to return a person to a place where they would be so treated.¹⁵

16. The European Court of Human Rights has affirmed the right of trans people to have their civil status altered to reflect their lived gender.¹⁶ However, barriers to that recognition remain, including the requirement for divorce and for compulsory sterilisation.¹⁷ These restrictions are being challenged at a domestic level in some jurisdictions.¹⁸

Criminalisation

17. In its 2015 survey of legislation affecting LGBT people, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) finds that 75 countries criminalise same-sex activity between consenting adults.¹⁹ While these laws have historically focused on sex between men, in 50 countries sex between women is illegal.²⁰ The punishment for these offences can be severe, with penalties ranging from lashings, life imprisonment and, in eight countries, death.²¹ Figures submitted to the inquiry suggest that:

- a. 2.9 billion people (40 per cent of the world's population) live in jurisdictions which criminalise same-sex sexual activity between consenting adults;

¹¹ On 29 October 2014, the Singapore Court of Appeal ruled that section 377A of Singapore's Penal Code, which criminalises sexual intimacy between men, did not violate articles 9 and 12 (relating to life, liberty and equality) of the Singapore Constitution: *Lim Meng Suang and anor v Attorney-General* [2014] SGCA 53.

¹² On 11 December 2013, the Indian Supreme Court reversed an earlier Delhi High Court decision which had read down section 377 of the Indian Penal Code, effectively decriminalising consensual same-sex conduct between men in private: *Suresh Kumar Koushal & Ors v Naz Foundation & Ors*, Supreme Court of India, SLP (c) 15436/2009. This ruling is now itself subject to review.

¹³ *Identoba & Ors v Georgia*, European Court of Human Rights, Application No. 73235/12, 12 August 2015.

¹⁴ See for example United Nations High Commission for Refugees, *Guidelines on International Protection No. 9: Claims of Refugee States based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/GIP/12/09, 23 October 2012.

¹⁵ See article 33 of the *1951 Convention Relating to the Status of Refugees* and article 3 of the *1984 Convention Against Torture*.

¹⁶ Article 8 of the ECHR requires that trans people be allowed to alter civil status records and have their lived gender legally recognised: *B v France* (1992) 16 EHRR, *Goodwin v UK* (1996) 22 EHRR 123 and *L v Lithuania* (2007) 46 EHRR 431.

¹⁷ Sterilisation, gender affirmation surgery and/or psychiatric diagnoses are pre-requisites to gender recognition in many jurisdictions, although some have recently moved to remove certain requirements; see Transgender Europe, 'Trans Rights Europe Map, 2015' http://tgeu.org/wp-content/uploads/2015/05/Trans-map-Side_A_Map-2015.pdf. See also *AB and AH v State of Western Australia* [2011] HCA 42.

¹⁸ Unsuccessful challenges to the requirement to divorce before a lived gender can be legally recognised have been mounted in, for example, the UK and Finland. The ECtHR has considered that States that do not provide for marriage equality do not need to change this requirement: *Wena and Anita Parry v UK*, Application No. 42971/05, 28 November 2006, *R and F v UK*, Application No. 35748/05, 28 November 2006 and *Hamalainen v Finland* [2015] 1 FCR 379.

¹⁹ Carroll, A., and L. P. Itaborahy. *State Sponsored Homophobia 2015: A world survey of laws: criminalisation, protection and recognition of same-sex love*. Geneva: ILGA, 2015.

²⁰ *Ibid.*

²¹ Report of the United Nations High Commissioner for Human Rights, *Update of report A/HRC/19/41 (on discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity)*.

- b. Over 400 million people live under laws which punish same-sex sexual activity with the death penalty.²²

18. Trans people face particular kinds of human rights violations in relation to the law. Only 55 states allow trans people to change their gender legally on official documents.²³ The majority of those jurisdictions impose restrictive criteria, which are obstacles to gender recognition and potentially are human rights violations in themselves. These conditions include:

- a. Requiring that trans people undergo medical transition;
- b. Requiring a medical diagnosis under a specific mental health classification;
- c. The approval of health professionals, judges, and/or their partners.

19. Of the 27 states in Europe that have laws allowing trans people to change their gender on official documents, 23 of them require that trans people undergo sterilisation in order to access these rights.²⁴

20. The picture regarding the explicit criminalisation of trans people remains incomplete.²⁵ The evidence that does exist suggests that, even in the absence of explicit criminalisation, trans people remain particularly vulnerable to persecution, in part due to their often greater visibility and the tendency of authorities to misread their gender identity as transgressing legal and social prohibitions on sexual orientation. Often they are liable to be harassed, detained and prosecuted under legislation that prohibits same-sex activity.²⁶ Although legislation that criminalises trans people specifically exists (particularly 'cross dressing' laws), such explicit legal prohibitions around trans identity appear to be less widespread than those banning same-sex activity.²⁷ While there is evidence that these laws are enforced in parts of the world (for example in Malaysia²⁸) more resources are required for comprehensive understanding of the extent and nature of the criminalisation of trans people.

21. The majority of jurisdictions that criminalise same-sex activity do so on the basis of legislation inherited from Britain during their colonial histories. For example, in the Commonwealth 40 of the 53 member states criminalise same-sex activity using legislation inherited from the British Empire.²⁹ More than 90 per cent of Commonwealth citizens live in jurisdictions where same-sex activity is a criminal offence.³⁰ Outside of the Commonwealth a number of countries criminalise due to the same British colonial laws, including Burma, the Cook Islands, Egypt, the Gambia, Gaza and Zimbabwe.³¹ While this fact alone offers a

²² The Human Dignity Trust, *Written Evidence for the All Party Parliamentary Group on Global LGBT Rights, on the UK's stance on international breaches of LGBT rights*, September 2015 and Stonewall, "Submission to the APPG on Global LGBT Rights", September 2015.

²³ Transphobia vs Transrespect Research Project, *Legal and Social Mapping of Trans Laws – World*, 2014. http://www.transrespect-transphobia.org/uploads/downloads/Legal-Social-Mapping2014/web_tvt_mapping_1_EN.pdf

²⁴ Stonewall, "Submission to the APPG on Global LGBT Rights", September 2015.

²⁵ The most comprehensive mapping of the legal landscape for trans people is Transphobia vs Transrespect Research Project, *Legal and Social Mapping of Trans Laws – World*, 2014. http://www.transrespect-transphobia.org/uploads/downloads/Legal-Social-Mapping2014/web_tvt_mapping_1_EN.pdf.

²⁶ Ibid.

²⁷ Ibid.

²⁸ In 2015 the Malaysia Federal Court upheld the ban on cross-dressing for Muslims, overturning an earlier Court of Appeal ruling. See Reuters, Malaysia court upholds ban on cross dressing by transgender Muslims, 8 October 2015. <http://www.reuters.com/article/us-malaysia-verdict-crossdressing-idUSKCN0S21CE20151008>

²⁹ The Kaleidoscope Trust, "Speaking Out 2015: the rights of LGBTI people across the Commonwealth", November 2015. http://kaleidoscopetrust.com/usr/library/documents/main/2015_speakingout_241115_web.pdf

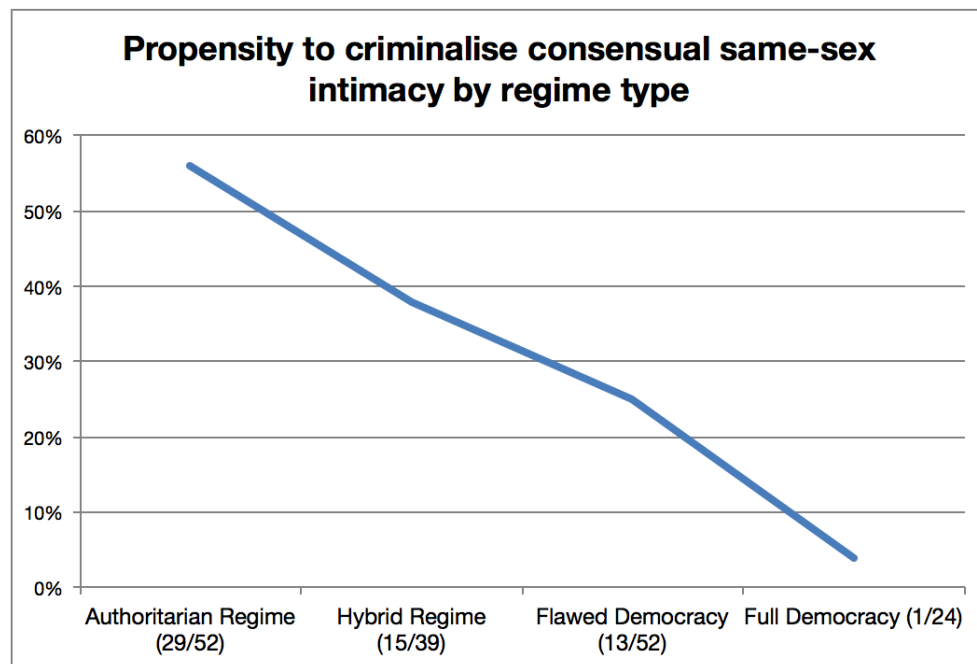
³⁰ The Commonwealth Equality Network, *More Than 90% Of Commonwealth Citizens Live in A Country That Criminalises LGBTI People*, 12 November 2015. <http://www.commonwelthequality.org/news/10/>

³¹ The Human Dignity Trust, *Written Evidence for the All Party Parliamentary Group on Global LGBT Rights, on the UK's stance on international breaches of LGBT rights*, September 2015.

justification for British action to address the persecution faced by LGBT people, it also suggests caution when seeking to intervene bilaterally in support of LGBT rights, particularly against the backdrop of an often fraught colonial history. The same colonial history that impels action can also lead to accusations of neo-colonialism when that action fails to take into account local contexts.

22. There is a clear correlation between the criminalisation of same-sex sexual activity and the health of a state's democracy. Mapping by the Human Dignity Trust, using the Economist Intelligence Unit's 2014 survey of democracy in 167 states illustrates this relationship, showing that the propensity to criminalise by type of regime (see Figure 1).³²

Figure 1



Source: The Human Dignity Trust, *Written Evidence for the All Party Parliamentary Group on Global LGBT Rights, on the UK's stance on international breaches of LGBT rights*, September 2015.

23. It is important to note that criminalisation is enforced differently across jurisdictions that prohibit same-sex sexual activity. While concrete and comparable figures tracking the implementation of criminalisation are hard to come by, there is a recognised discrepancy between the mere existence of laws that criminalise LGBT people and the application of those laws. As pointed out by the Royal Commonwealth Society, countries such as Malawi, while not repealing laws that criminalise same-sex activity, have nonetheless publicly announced a moratorium on their enforcement.³³ In a number of jurisdictions, including some of those that are often considered the 'worst places for LGBT people to live', there is little evidence that laws have been recently enforced.

³² The survey identified 52 Authoritarian Regimes among the 167 states surveyed. Of these 52, 29 criminalise consensual same-sex intimacy (i.e. 56%). Of the 39 Hybrid Regimes, 15 criminalise (i.e. 38%). Of the 52 Flawed Democracies, 13 criminalise (i.e. 25%). Of the 24 Full Democracies, one criminalises (i.e. 4%; namely Mauritius, which scrapes into this top category). See The Economist Intelligence Unit, *Democracy Index 2014*, 2014. http://www.eiu.com/public/topical_report.aspx?campaignid=Democracy0115

³³ The success of the moratorium is open to debate. See 76 Crimes, *It's Official: No more Malawi arrests under anti-gay laws*, 14 July 2014. <http://76crimes.com/2014/07/14/its-official-no-more-malawi-arrests-under-anti-gay-laws/>

24. Even in the absence of official enforcement, criminalisation leaves LGBT people prone to arbitrary detention, police abuse, entrapment, harassment, blackmail, and extortion by state and non-state actors.³⁴ Criminalisation underpins and reinforces a stigmatising and persecutory environment for LGBT people, and supports social attitudes that discriminate on the basis of sexual orientation and gender identity. Criminalisation also leaves LGBT people exposed to discrimination in, and exclusion from, employment, education, housing and health services, with little or no recourse to redress or recompense.³⁵ While it is important to approach apparently less severe or moderate jurisdictions on their own terms, the impact of unenforced legislation on individuals can be severe.

25. While decriminalisation is a major component of addressing the human rights violations faced by LGBT people, we recognise that it is not always the first step to providing an improved landscape. Other interventions that focus on more achievable short-term policy objectives, such as moratoriums, anti-discrimination legislation and equal opportunities policy are, in some contexts, important in preparing the ground for decriminalisation. Building the capacity of local actors to contest discrimination and human rights violations is vital in achieving eventual decriminalisation. As with all interventions, strategies to protect the human rights of LGBT people and to counter discrimination on the basis of sexual orientation and gender identity need to be developed in conjunction with local and national civil society priorities.

Violence

26. Violence remains pervasive in the lives of LGBT people across the world. In 2015, the UN High Commissioner for Human Rights (OHCHR), Prince Zeid Ra'ad Al Hussein, in a report on discrimination and violence against individuals based on their sexual orientation and gender identity, observed that:

The overall picture remains one of continuing, pervasive, violent abuse, harassment and discrimination affecting LGBT and intersex persons in all regions. These constitute serious human rights violations, often perpetrated with impunity, indicating that current arrangements to protect the human rights of LGBT and intersex persons are inadequate.³⁶

27. The OHCHR report finds that in addition to opportunistic and spontaneous attacks in public settings, “those perceived as LGBT remain targets of organized abuse, including by religious extremists, paramilitary groups and extreme nationalists.”³⁷ The risk of family and community violence, particularly for young LGBT people, is also identified in the report.

28. In its 2014 *Resolution on Sexual Orientation and Gender Identity*, the African Commission on Human and People's Rights noted that the violence facing LGBT people included:

‘Corrective’ rape, physical assaults, torture, murder, arbitrary arrests, detentions, extra-judicial killings and executions, forced disappearances,

³⁴ The Human Dignity Trust, *Written Evidence for the All Party Parliamentary Group on Global LGBT Rights, on the UK's stance on international breaches of LGBT rights*, September 2015.

³⁵ Ibid.

³⁶ Report of the Office of the United Nations High Commissioner for Human Rights, ‘*Discrimination and violence against individuals based on their sexual orientation and gender identity*’, 4 May 2015.

http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_23_en.doc

³⁷ Ibid.

extortion and blackmail . . . by State and non-State actors targeting human rights defenders and civil society organisations working on issues of sexual orientation or gender identity in Africa.³⁸

29. Globally, civil society has identified combating violence as a high priority in addressing the wider rights violations faced by LGBT people. In its recent (2014-2015) consultation with the representatives of 66 LGBT rights organisations worldwide, Stonewall found that:

Working to combat violence against LGBT people is the top priority of many civil society organisations. This figured significantly ahead of work on healthcare, education, faith, and freedoms of expression, assembly and association. Many expressed the view that reducing violence, as opposed to decriminalisation, should be the principal aim of the international community.³⁹

30. Lesbian and bisexual women and women who have sex with women (WSW) are at high risk of multiple forms of violence committed against them within their partnerships, families and societies.⁴⁰ Of particular concern is the use of targeted sexual violence against WSW, based on their transgressions of heteronormative social mores. So-called 'corrective rape', particularly against WSW and trans men, is well documented in South Africa⁴¹, with cases also reported in Jamaica, Uganda, India and Zimbabwe.⁴² In many cases sexual violence is committed or sanctioned by family members in order to 'correct' the victim's sexual orientation or gender identity.⁴³ The exact prevalence remains difficult to determine, both through under-reporting, inadequate policing and the failure of states to properly investigate or prosecute such offences.

31. The prevalence of violence against trans people is particularly acute. In Europe, one in twenty trans people experience a violent hate crime each year.⁴⁴ Figures collated by the Inter-American Court of Human Rights in 2012-14 show that of the 594 lethal LGBT hate crimes documented in the Americas, 281 (47 per cent) were committed against trans people.⁴⁵ A study in 2012 found that trans communities in Latin America faced extreme human rights abuses such as arbitrary detention, torture and extrajudicial killings, accompanied by widespread impunity.⁴⁶ Both studies concede that the actual incidence of violence is likely to be higher, due to under-reporting by individuals and the pervasive lack of state mechanisms that record violence against trans people.

³⁸ The African Commission on Human People's Rights, 275: *Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity*, 28 April to 12 May, 2014. <http://www.achpr.org/sessions/55th/resolutions/275/>

³⁹ Stonewall, "Submission to the APPG on Global LGBT Rights", September 2015.

⁴⁰ Daly, Felicity, *Claiming the Human Right to Health for Women Who Have Sex With Women Through South Africa's National Strategic Plan on HIV and STIs*, 2015. <http://www.eldis.org/go/home&id=73675&type=Document#.Vrl-hGdVng4>

⁴¹ Holland-Muter S.2012. *Outside the Safety Zone: An Agenda for Research on Gender-Based Violence Targeting Lesbian and Bisexual Women in South Africa*, Braamfontein, Gauteng, South Africa Ma Thokos Books.

⁴² See Brown, Roderick (2012) "Corrective Rape in South Africa: A Continuing Plight Despite an International Human Rights Repsonse," *Annual Survey of International & Comparative Law*: Vol. 18: Iss. 1, Article 5.

<http://digitalcommons.law.ggu.edu/annlsurvey/vol18/iss1/5>

⁴³ See for example Jain, Rupan, *Parents use 'corrective rape' to 'straight'en their gay kids*, Times of India, 31 May 2015.

<http://timesofindia.indiatimes.com/city/hyderabad/Parents-use-corrective-rape-to-straighten-their-gay-kids/articleshow/47489958.cms>

⁴⁴ European Fundamental Rights Agency, "Being Trans in Europe: Comparative analysis of EU LGBT survey data", 2014.

http://fra.europa.eu/sites/default/files/fra-2014-being-trans-eu-comparative-0_en.pdf

⁴⁵ Inter-American Court of Human Rights, "Registry of Violence", 17 December 2014.

http://www.oas.org/en/iachr/media_center/PReleases/2014/153.asp

⁴⁶ REDLACTRANS, "The Night is Another Country: Impunity and violence against transgender women human rights defenders in Latin America", 2012. http://www.aidsalliance.org/assets/000/000/405/90623-Impunity-and-violence-against-transgender-women-human-rights-defenders-in-Latin-America_original.pdf?1405586435

32. Evidence collected by national organisations suggests that violence on the basis of sexual orientation and gender identity rises in response to state sponsored attacks on the rights of LGBT people. For example, the passage of the 2014 Same Sex Marriage (Prohibition) Act in Nigeria led to “‘suspected’ and perceived LGBTIs [being] subjected to public whippings, hunted down, evicted from their homes, job loss, even arrested and tortured by the police.”⁴⁷ Research published by Sexual Minorities Uganda suggests that following the passage of the (now revoked) Anti-homosexuality Act, incidents of persecution, including violence, rose in comparison with figures collected in earlier years.⁴⁸

33. There is however, an evidence and research gap at the grassroots level, making wider assertions more difficult. As identified by Stonewall in its 2014-15 consultation, “there is a lack of verified and cross-country comparable data, nationally and internationally, on the scale and characteristics of LGBT hate crimes.”⁴⁹ The need to support solid data collection as part of wider advocacy strategies was highlighted by a number of witnesses.⁵⁰ Lack of financial resources, political will and capacity development programming impede the collection of data, acting to obscure the scale of violence and to limit the ability of civil society to make compelling arguments for legislative and policy change. The failure by states and other agencies to record and report such data leaves it to civil society to fill the gap, often in the face of under-resourcing, lack of capacity and against a background of competing organisational priorities, such as service provision, advocacy and campaigning.

34. While there may be a *prima facie* correlation between criminalisation, socio-economic status or political system and the incidence of violence faced by LGBT people, it is worth noting that reports of violence come from all corners of the world, regardless of the political, social or legislative context. The 2015 report of the OHCHR cites that “United Nations human rights mechanisms continue to receive reports of homophobic and transphobic violence committed in all regions.”⁵¹ As observed by the International HIV/AIDS Alliance, while parts of Latin America enjoy legislation that protects the rights of LGBT people, “the region has the largest number of reported cases of hate crimes, homophobia and transphobia against the LGBT community.”⁵²

35. Opposition to violence has been increasingly successful in mobilising support for the rights of LGBT people in a number of international forums. The UN Human Rights Council has, on two occasions, adopted resolutions stating opposition to violence based on sexual orientation and gender identity. In 2014, the African Commission on Human and Peoples’ Rights passed Resolution 275, which condemned violence and other human rights violations based on real or imputed sexual orientation and gender identity.⁵³ In 2014 the Organization of American States approved its seventh resolution on human rights, sexual orientation and

⁴⁷ Aderonke Apata, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, 17 September 2014.

⁴⁸ Sexual Minorities Uganda. *From Torment to Tyranny Enhanced Persecution in Uganda Following the Passage of the Anti-Homosexuality Act 2014*. Kampala: Sexual Minorities Uganda, 2014.

⁴⁹ Stonewall, “*Submission to the APPG on Global LGBT Rights*”, September 2015.

⁵⁰ See interviews with Caleb Orozco and Logan Casey and The Institute of Development Studies, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, September 2015.

⁵¹ Report of the Office of the United Nations High Commissioner for Human Rights, ‘*Discrimination and violence against individuals based on their sexual orientation and gender identity*’ (4 May 2015) http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_23_en.doc

⁵² International HIV/AIDS Alliance, “*Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*”, 2015.

⁵³ The African Commission on Human and People’s Rights, “*Resolution 275: Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity*”, May 2014. <http://www.achpr.org/sessions/55th/resolutions/275/>

gender identity.⁵⁴ Advocacy by LGBT activists during the the recent Commonwealth Heads of Government Meeting secured a commitment from Commonwealth leaders to “protect individuals from all forms of violence.”⁵⁵ In forums where discussions of decriminalisation remain controversial and divisive, a focus on opposing violence can build support for the rights of LGBT people.

Freedom of expression, assembly and association

36. Attacks on the freedom of expression, assembly and association of LGBT people are routinely used by state and non-state actors to limit LGBT people’s access to rights and their ability to organise and contest rights violations. This has contributed to a shrinking of the space available to LGBT civil society to advocate for rights and services. This is most explicitly the case in countries where laws banning ‘homosexual propaganda’ have been enacted or proposed. In June 2013 the Russian Duma unanimously adopted, and President Vladimir Putin signed, a nationwide law banning the distribution of “propaganda of non-traditional sexual relations.” Since the introduction of the Russian law, 14 countries have considered similar legislation in Eastern Europe, Caucasus, Central Asia, and Africa.⁵⁶ These laws, generally framed in terms of protecting minors or ‘family values’, have had a chilling effect on any positive public discourse about LGBT people, even in the absence of prosecution.

37. Legislation introduced in Uganda and Nigeria strengthening the penalties for same-sex activity also included clauses drastically limiting the ability of LGBT people to organise in defence of their rights. Nigeria’s Same Sex Marriage (Prohibitions) Act has provisions that criminalise the formation, operation and support of “gay clubs, societies and organisations” with sentences of up to 10 years’ imprisonment, curtailing the ability of LGBT communities formally to organise, receive funds and provide services to and advocate on behalf of LGBT people.⁵⁷ Similarly the (now revoked) Ugandan Anti-Homosexuality Act, prohibited the “promotion of homosexuality” by individuals or organisations, incurring penalties of up to seven years’ imprisonment.⁵⁸

38. Even in the absence of laws specifically criminalising same-sex activity or the sharing of LGBT specific information, LGBT movements are often effectively denied these freedoms through state policy and practice, such as the failure to provide adequate policing for peaceful demonstrations and the failure to prosecute the perpetrators of hate crimes.⁵⁹

⁵⁴ See for example: Organisation of American States, ‘Human Rights, Sexual Orientation and Gender Identity’, AG/RES. 2435, 3 June 2008.

http://www.humandignitytrust.org/uploaded/Library/UN_and_Other_HR_Mechanisms/OAS/OAS_Resolution_on_Human_Rights_SOGLI_AG-RES._2600_2010.pdf; Organisation of American States, ‘Human Rights, Sexual Orientation and Gender Identity’, AG/RES. 2504, 4 June 2009.

http://www.humandignitytrust.org/uploaded/Library/UN_and_Other_HR_Mechanisms/OAS/OAS_Resolution_on_Human_Rights_SOGLI_AG-RES._2504_2009.pdf; Organisation of American States, ‘Human Rights, Sexual Orientation and Gender Identity’, AG/RES. 2600, 8 June 2010.

http://www.humandignitytrust.org/uploaded/Library/UN_and_Other_HR_Mechanisms/OAS/OAS_Resolution_on_Human_Rights_SOGLI_AG-RES._2435_2008.pdf.

⁵⁵ The Kaleidoscope Trust, 2015 *CHOGM Communiqué includes language that can advance the rights of LGBT people*, 4 December 2015. <http://kaleidoscopetrust.com/news/98>

⁵⁶ Carroll, A., and L. P. Itaborahy. *State Sponsored Homophobia 2015: A world survey of laws: criminalisation, protection and recognition of same-sex love*. Geneva: ILGA, 2015. p32-33

⁵⁷ *Nigeria: Same Sex Marriage (Prohibition) Act, 2013* [Nigeria], 17 December 2013, <http://www.refworld.org/docid/52f4d9cc4.html>

⁵⁸ *Uganda: The Anti-Homosexuality Act, 2014* [Uganda], 14 February 2014, <http://www.refworld.org/docid/530c4bc64.html>

⁵⁹ Stonewall, “Submission to the APPG on Global LGBT Rights”, September 2015.

Health

39. The World Health Organisation has stated that criminalisation and stigma on the basis of sexual orientation and gender identity leads to exclusion from health services and contributes to poorer health outcomes, particularly for already at-risk communities, such as men who have sex with men (MSM) and trans women.⁶⁰

40. The effects of criminalisation is particularly acute in the case of HIV, as stated by the International HIV/AIDS Alliance:

LGBTI people who are often subjected to punitive legislation and/or discrimination also face disproportionately higher rates of HIV infection than that of the general population. Criminalisation increases the risk of HIV for MSM and trans people by directly impeding their access to services, preventing the formation of support groups, and grassroots responses to HIV. Punitive laws backed up by police harassment of LGBTI people also legitimises social stigma, discrimination and violence against such communities. This not only results in such individuals having low self-esteem, which in turn can lead to a lack of care regarding safer sexual practices, but also dissuades their engagement in medical services where health care workers may themselves hold negative attitudes towards MSM and trans people.⁶¹

41. There is a proven link between criminalisation, persecutory environments and increased HIV prevalence in men who have sex with men.⁶² The Joint United Nations Programme on HIV and AIDS reports that in Caribbean countries where same-sex activity is criminalised, almost 1 in 4 MSM is infected with HIV. In Caribbean countries that do not criminalise, the prevalence among MSM is 1 in 15.⁶³ The Commission on AIDS in Asia found that MSM account for between 10 to 30 per cent of new HIV infections annually,⁶⁴ and projects that MSM will constitute close to half of all new HIV infections occurring annually in Asia by 2020.⁶⁵

42. Criminalisation acts to prevent the formation of support groups and grassroots responses to HIV, impeding both prevention and treatment. For example, following the passage of Nigeria's Same-Sex Marriage (Prohibition) Act, there was a reported decrease in access to HIV prevention and treatment for MSM.⁶⁶

43. Despite overwhelming evidence indicating that criminalisation and social stigma greatly heighten the risk of infection, the International HIV/AIDS Alliance suggests that "HIV

⁶⁰ World Health Organization. *Sexual health, human rights and the law*. Geneva: World Health Organization, 2015.

⁶¹ International HIV AIDS Alliance, "Submission to the APPG on Global LGBT Rights", September 2015.

⁶² UNAIDS-Lancet Commission on Defeating AIDS – Advancing Global Health, Vol. 386, No. 9989 (11 July 2015): p.178.

Available at: [http://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(15\)60658-4.pdf](http://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(15)60658-4.pdf)

⁶³ UNAIDS, (2008), *Global Report on the AIDS Epidemic 2008*.

http://data.unaids.org/pub/GlobalReport/2008/jc1511_gr08_executivesummary_en.pdf

UNAIDS, (2008), *Keeping Score II: A Progress Report towards Universal Access to HIV Prevention, Treatment, Care and Support in the Caribbean*.

http://www.unaids.org/en/media/unaids/contentassets/dataimport/pub/report/2008/20081206_keepingcoreii_en.pdf

⁶⁴ Commission on AIDS in Asia, *Redefining AIDS in Asia: Crafting an Effective Response*, Oxford University Press (2008), p. 203

⁶⁵ Commission on AIDS in Asia, *Redefining AIDS in Asia: Crafting an Effective Response*, Oxford University Press (2008), p. 57

⁶⁶ *The Lancet*, 'The immediate effects of the Same-Sex Marriage Prohibition Act on Stigma, discrimination, and engagement on HIV prevention and treatment services in men who have sex with men in Nigeria: analysis of prospective data from the TRUST cohort', Vol. 2, Issue 2, (July 2015): pp. 299-306. Available at:

[http://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018\(15\)00078-8/abstract](http://www.thelancet.com/journals/lanhiv/article/PIIS2352-3018(15)00078-8/abstract)

prevention programmes focusing on MSM and trans people remain woefully inadequate across all regions of the world.”⁶⁷

44. Contributors to the inquiry pointed out the need to reach beyond the historic focus on the sexual health of LGBT people (in particular on the sexual health of MSM and trans women), in order to address the wider set of health issues they face, including mental health, physical wellbeing and access to essential health services.⁶⁸ Breaches of LGBT rights have a clear impact on people’s health that is ongoing, long-lasting and complex. Mental health issues, ranging from post-traumatic stress disorder to severe depression, can be linked directly to the criminalisation of LGBT people’s identity and their experience of discrimination, violence and persecution.⁶⁹ The Institute for Development Studies points to the example of Uganda, where “mental and physical health have been undermined by the proliferation of hate crimes against LGBT people.”⁷⁰

45. Lesbian, bisexual and trans (LBT) women are likely experience significantly poorer health outcomes compared to the general population. They are less likely to access preventative care due to factors at the level of the patient, provider and health care system.⁷¹ Discriminatory attitudes within the health care system, both individually and systematically, deters LBT women from accessing health care.⁷² In its recent report, the Women’s and Equalities Select Committee finds that trans people in the UK are likely to “experience worse health (both physical and mental) than the general population, which is likely to be substantially due to the direct and indirect effects of the inequality which trans people experience.”⁷³ In some contexts “doctors and nurses are permitted to refuse treatment if they disapprove of non-normative sexual orientations or expressions of gender.”⁷⁴

46. The specific health concerns of WSW, lesbian and bisexual women are not currently well served in the current funding landscape; nor are they well understood in the current literature. Their health needs are often excluded from wider analyses of women’s health and from analyses of LGBT health concerns, including their sexual and reproductive health. As pointed out by Dr Felicity Daly of the Kaleidoscope Trust:

Women who have sex with women (WSW), whether or not they identify as lesbian or bisexual, have been under-analysed in high income countries and low and middle income countries for a range of sexual and reproductive health concerns including risk of acquiring HIV . . . Lesbian and bisexual women have been excluded from considerations about improving the sexual health needs of heterosexual women or other LGBTI people particularly in the context of HIV prevention focused on the documented risks facing gay and bisexual men and transgender women.⁷⁵

⁶⁷ International HIV AIDS Alliance, “*Submission to the APPG on Global LGBT Rights*”, September 2015.

⁶⁸ See submissions from the Institute of Development Studies and the Kaleidoscope Trust.

⁶⁹ Doctors of the World UK, *Submission to the Inquiry of the All Party Parliamentary Group on Human Rights*, September 2015.

⁷⁰ The Institute of Development Studies, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, September 2015.

⁷¹ Hutchinson, M. K., Thompson, A. C. & Cederbaum, J. A. 2006. Multisystem factors contributing to disparities in preventive health care among lesbian women. *J Obstet Gynecol Neonatal Nurs*, 35, 393-402.

⁷² Daly, Felicity, *Claiming the Human Right to Health for Women Who Have Sex With Women Through South Africa’s National Strategic Plan on HIV and STIs*, 2015. <http://www.eldis.org/go/home&id=73675&type=Document#.Vrl-hGdVng4>

⁷³ The Women and Equalities Committee, *Transgender Equality: First Report of the 2015-16 Session*, January 2016. <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmwomeq/390/390.pdf>

⁷⁴ Human Rights Council, *Alternative Report; Kyrgyzstan*, 2014.

⁷⁵ Daly, Felicity, *Claiming the Human Right to Health for Women Who Have Sex With Women Through South Africa’s National Strategic Plan on HIV and STIs*, 2015. <http://www.eldis.org/go/home&id=73675&type=Document#.Vrl-hGdVng4>

Refugee and asylum

47. Due to the often life-threatening situation in their countries of origin, LGBT people may seek asylum in more accommodating states. Solid figures on the numbers of LGBT people seeking asylum, globally and in the UK, are unclear. Official figures are not generally made public by relevant authorities, including the Home Office, and existing research is increasingly out of date. In 2009, research estimated that 1,200-1,800 LGB people came to the UK as asylum seekers each year.⁷⁶ The most recent European data, developed in 2011, estimated that approximately 10,000 LGBT people sought asylum in Europe each year.⁷⁷ Due to methodological limitations, changes in the asylum system in the UK and in the EU, emerging crises in countries like Uganda and Nigeria, and against the background of the current European refugee crisis, these figures are likely to be substantial underestimates.

48. Many LGBT asylum seekers have experienced human rights abuses because of their sexual orientation or gender identity. In its submission to the inquiry the UK Lesbian and Gay Immigration Group (UKLGIG) states that:

Many of our clients, both male and female, are survivors of rape. Due to multiple layers of discrimination, LGBTI asylum seekers are invariably highly marginalised in society and isolated from their communities and families. Many experience feelings of profound shame and/or internalised homophobia.⁷⁸

49. These sentiments are echoed in the submission from African Rainbow Families:

Many LGBTIs have to flee for their lives and seek sanctuary in other LGBTI friendly countries . . . Seeking asylum based on one's sexual orientation and or gender identity is the most complex of all. The shame, stigma, secrecy, having to live dual lives such as forced marriages to opposite sex to shielding and covering up in order to hide our differences and conform with our societal norms, religious and cultural beliefs are very daunting.⁷⁹

50. Aderonke Apata, a human rights activist and equality advocate who fled persecution in Nigeria, reported to the inquiry:

Growing up in Nigeria, I was unable to disclose my sexuality, yet unable to hide it. The culture in Nigeria makes it clear that being gay or transgender is a sin, a sentiment that is fuelled by homophobic messages from faith communities, political leaders, families, and schools. I took these messages in, identified with them, and carried the shame of being a lesbian woman in Nigeria. I was arrested, tortured and extorted by the Nigerian Police.⁸⁰

51. Data submitted by Doctors of the World UK support these assertions. Over the last three years the clinic has served 250 people who identified persecution for being LGBT as their principal reason for leaving their country of origin. Analysis of their client base shows that 32

⁷⁶ Metropolitan Support Trust, 'Over Not Out: The housing and homelessness issues specific to lesbian, gay, bisexual and transgender asylum seekers'. 2009. <http://www.metropolitan.org.uk/images/Over-Not-Out.pdf>

⁷⁷ See Jansen, Sabine and Thomas Spijkerboer, *Fleeing Homophobia: Asylum Claims Related to Sexual Orientation and Gender Identity in Europe*, September 2011. <http://www.refworld.org/pdfid/4ebba7852.pdf>

⁷⁸ UKLGIG, *Submission to All Party Parliamentary Group (APPG) On Global LGBT Rights*, September 2015.

⁷⁹ African Rainbow Families, *Submission to All Party Parliamentary Group on Global LGBT Rights*, 18 September 2015.

⁸⁰ Aderonke Apata, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, 17 September 2014.

per cent reported having been assaulted, physically or sexually.⁸¹ Some patients experienced a stand-alone incident; others survived a cycle of violence. Patients reported violence from both state and non-state actors, including people from their community, their families and their spouses. Many others reported violence by state forces including police and prison officials.

52. Doctors of the World UK also reports that experiences of forced, or coerced marriage were not uncommon amongst their client base.⁸² In some cases, these marriages were accompanied by sexual violence, particularly where someone's sexual orientation was discovered.

53. Evidence submitted to the inquiry emphasised how those fleeing persecution were often re-victimised by the experience of seeking asylum. This applies to those fleeing persecution on the basis of their sexual orientation and gender identity and those fleeing conflict or political persecution. This point is made by the United Nations High Commissioner for Refugees (UNHCR), who states:

LGBTI persons fleeing persecution face a complex array of challenges and threats at all stages of displacement, including discrimination, prejudice, violence, difficulty accessing humanitarian services, and barriers to articulating their protection needs during asylum procedures and other interactions with protection and humanitarian actors.⁸³

54. Moreover, LGBT asylum seekers continue to face discrimination when reaching apparently safe countries:

In reception and detention centres in Europe, LGBTI asylum applicants are frequently confronted with homophobic and transphobic behaviour, ranging from discrimination to abuse and violence. This stems from other asylum applicants and, in some cases, from reception or asylum authorities.⁸⁴

55. The specific challenges facing those seeking asylum in the UK on the basis of their sexual orientation and gender identity are discussed in more detail below.

⁸¹ Doctors of the World UK, *Submission to the Inquiry of the All Party Parliamentary Group on Human Rights*, September 2015.

⁸² Ibid.

⁸³ UN High Commissioner for Refugees (UNHCR), *Protecting Persons with Diverse Sexual Orientations and Gender Identities: A Global Report on UNHCR's Efforts to Protect Lesbian, Gay, Bisexual, Transgender, and Intersex Asylum-Seekers and Refugees*, December 2015. <http://www.refworld.org/docid/566140454.html>

⁸⁴ Jansen, Sabine and Thomas Spijkerboer, *Fleeing Homophobia: Asylum Claims Related to Sexual Orientation and Gender Identity in Europe*, September 2011. <http://www.refworld.org/pdfid/4ebba7852.pdf>

Chapter 2: The economic costs of discrimination

56. There is growing evidence of the economic cost of the legal and social discrimination faced by LGBT people. These costs can be considered at three levels: costs to the individual, costs to business and costs to the whole economy. The economic frame opens up a powerful incentive for states to work to combat discrimination and creates a compelling argument for the private sector to do more to promote diversity.

The costs to individuals

57. Where they face legal and/or social discrimination LGBT people may face “exclusion from social and economic participation, or [be] included on adverse terms”⁸⁵, resulting in lower socio-economic outcomes for them as individuals. Research from the Institute of Development’s Sexuality, Poverty and the Law programme finds that LGBT individuals face specific disadvantages with “respect to all aspects of poverty including: ascribed and legal inferiority, lack of political clout, lack of information, educational deficiencies, barriers to public institutions, barriers to social protection measures, spatial marginalisation, greater physical insecurities and material poverties.”⁸⁶ In evidence submitted to the inquiry, several specific, though not exhaustive, factors contributing to the poverty faced by LGBT people were identified: access to education, experiences of homelessness and workplace discrimination.

58. UNESCO has asserted that that LGBT students face higher rates of harassment in, and exclusion from, education than their peers, in almost every country where there is data.⁸⁷ Research by the Institute for Development Studies finds that discrimination against people on the basis of their sexual orientation in educational settings contributes to premature exit from schools and universities.⁸⁸ Furthermore, where policies exist to combat homophobic and transphobic bullying, their implementation may be limited by educators themselves.

59. Young LGBT people are disproportionately vulnerable to homelessness and poverty, which has been linked to their experience of discrimination on the basis of sexual orientation and gender identity. Homelessness among young people has been found to be linked to their experience of violent bullying in schools, or in their families, due to their sexual orientation and gender identity.⁸⁹ Research by the Institute of Development studies suggests that:

Homeless youth who identify as gay, lesbian or bisexual find it harder to access sexual health resources and more likely to take sexual health risks compared to those self-identified as heterosexual, potentially compounding their vulnerability to poverty.⁹⁰

⁸⁵ Jolly, Susan. *Poverty and Sexuality: What are the connections?* SIDA, 2010.

⁸⁶ The Institute of Development Studies, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, September 2015.

⁸⁷ UNESCO. *Good Policy And Practice In Hiv And Health Education: Education Sector Responses To Homophobic Bullying*. UNESCO, 2012.

⁸⁸ The Institute of Development Studies, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, September 2015.

⁸⁹ Boyce, P. and Coyle, D. (2013) *Development, Discourse and Law: Transgender and Same-Sex Sexualities in Nepal*, IDS Evidence Report 13, Brighton: IDS

Coyle, D. and Boyce, P. (2015) *Same-Sex Sexualities, Gender Variance, Economy and Livelihood in Nepal: Exclusions, Subjectivity and Development*, IDS Evidence Report 109, Brighton: IDS

Dhall, P. and Boyce, P. (2015) *Livelihood, Exclusion and Opportunity: Socioeconomic Welfare among Gender and Sexuality Non-normative People in India*, IDS Evidence Report 106, Brighton: IDS

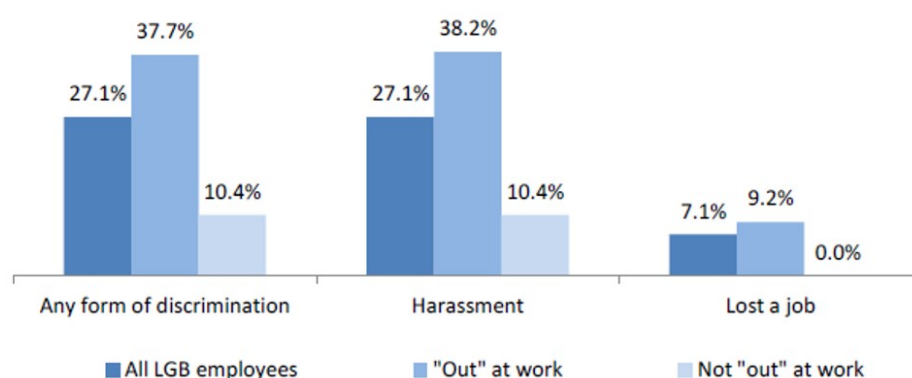
⁹⁰ The Institute of Development Studies, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, September 2015.

60. In Uganda evidence suggests that being denied housing because of actual or perceived sexual orientation is commonplace, even more so following the passage of the (now revoked) Anti-Homosexuality Act.⁹¹

61. Workplace discrimination has emerged as a key factor in increasing the vulnerability of LGBT people to economic disadvantage. For example, in Italy same-sex couples are vulnerable to discrimination, compared to heterosexual counterparts, at all stages of employment, including during hiring, dismissal, career advancement and access to training.⁹² Research by Stonewall in 2013 found that one in five LGB employees in the UK had experienced verbal bullying from colleagues, customers or service users in the previous five years.⁹³ A quarter of respondents said they were 'not at all open' to colleagues about their sexual orientation. Research in the United States has found that "83 per cent of LGBT individuals reported covering at work."⁹⁴ A study by the Human Rights Campaign found that 62 per cent of LGBT college graduates in the United States went back into the closet upon taking their first job.⁹⁵ Data from the Williams Institute in the U.S. shows the extent of discrimination faced by LGB people in the workplace (see Figure 2). More recent research shows that gay men earn 10 to 32 per cent less than otherwise similar heterosexual men.⁹⁶

Figure 2

Discrimination Based on Sexual Orientation during the Five Years Prior to the Survey, General Social Survey, 2008



Source: Documented Evidence of Employment Discrimination & Its Effects on LGBT People, The Williams Institute, July 2011.

62. Research from outside of the West parallels these findings. A study by the Institute of Development Studies in Vietnam highlights the role of workplace discrimination in LGBT

⁹¹ Sexual Minorities Uganda. *From Torment to Tyranny Enhanced Persecution in Uganda Following the Passage of the Anti-Homosexuality Act 2014*. Kampala: Sexual Minorities Uganda, 2014.

⁹² The Institute of Development Studies, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, September 2015.

⁹³ Stonewall, *Gay in Britain: Lesbian, Gay and Bisexual People's Experiences and Expectations of Discrimination*, 2013. https://www.stonewall.org.uk/sites/default/files/Gay_in_Britain_2013.pdf

⁹⁴ Findings reported by Kenji Yoshino, *Out on the Street, 2014 Europe Summit summation pack*, p.21. "Covering" refers to toning down a disfavoured identity to fit into the mainstream.

⁹⁵ Claer Barrett, *Companies chase 'return on equality'*, The Financial Times, <http://www.ft.com/cms/s/2/436002ac-47e4-11e4-ac9f-00144feab7de.html#axzz3lvCBHZ00>.

⁹⁶ The Williams Institute, *Documented Evidence of Employment Discrimination & Its Effects on LGBT People*, July 2011.

poverty, with research participants identifying the importance of employment as a means for them to move out of poverty.⁹⁷ A member of the study explained:

We are not interested in legalising same-sex marriage. As transgender people, we do not expect that we can have a long-term marriage. However, our primary concerns are jobs and sex changes. We cannot get good jobs because we dress and appear differently from the information on our identity card. However, no one cares about these needs.⁹⁸

63. The Institute of Development Studies goes on to state that:

Research conducted in Turkey on workplace discrimination found that most participants were not 'out' at their workplace because they feared verbal abuse or violence. Another study in Turkey, found that 80 per cent of participants could not live their sexual orientation openly and more than half (67 per cent) of the participants hid their real identities out of fear of receiving negative reactions from their colleagues. The 27 per cent who had revealed their sexual orientation in the workplace experienced homophobic jokes and reported being described as 'perverts'.⁹⁹

64. There is a particular role here for the trade union movement, which has a history of opposing workplace discrimination and championing the rights of LGBT people in the workplace and beyond. However, the role of the trade union movement in leveraging its relationships with peer organisations to oppose discrimination on the basis of sexual orientation and gender identity is not well represented in the literature nor in much of the discourse around global LGBT rights. Examples of good practice do exist. For example in 2015 the Trades Union Congress adopted the *Charter on International Lesbian, Gay, Bisexual and Transgender Solidarity*, which offers a solid set of guidelines on how to globalise the experience of the British trade union movement sensitively in supporting the rights of LGBT people.¹⁰⁰ Further research is needed, however, to understand better the role of trade unions in establishing good practice regarding sexual orientation and gender identity, disseminating that good practice and building international consensus on anti-discrimination and anti-homophobia in global trade union forums.

65. Evidence submitted to the inquiry suggests that economic exclusion continues to affect LGBT people, even after they have sought asylum in the UK. Evidence from Doctors of the World UK shows that of the 250 of their patients who identified as being LGBT and who had identified persecution for being LGBT as the principal reason they left their countries of origin, 93 per cent were surviving below the poverty line.¹⁰¹

⁹⁷ Oosterhoff, P.; Hoang, T-A. and Quach, T.T., *Negotiating Public and Legal Spaces: the Emergence of an LGBT Movement in Vietnam*, 2014.

⁹⁸ Ibid.

⁹⁹ The Institute of Development Studies, *APPG Global LGBT Rights inquiry: Institute of Development Studies (IDS) submission*, September 2015.

¹⁰⁰ Trades Union Congress, *Charter on International Lesbian, Gay, Bisexual and Transgender Solidarity*, March 2015. <https://www.tuc.org.uk/sites/default/files/LGBTTUCharter.pdf>

¹⁰¹ Doctors of the World UK, *Submission to the Inquiry of the All Party Parliamentary Group on Human Rights*, September 2015.

The costs to business

66. There is increasing evidence of a positive relationship between diverse and tolerant workplaces and successful business performance. In a wide-ranging review of the existing research on the relationship between discrimination and economic performance, Open for Business identifies a number of links between discrimination on the basis of sexual orientation and gender identity and the performance of business.¹⁰² Open for Business states that:

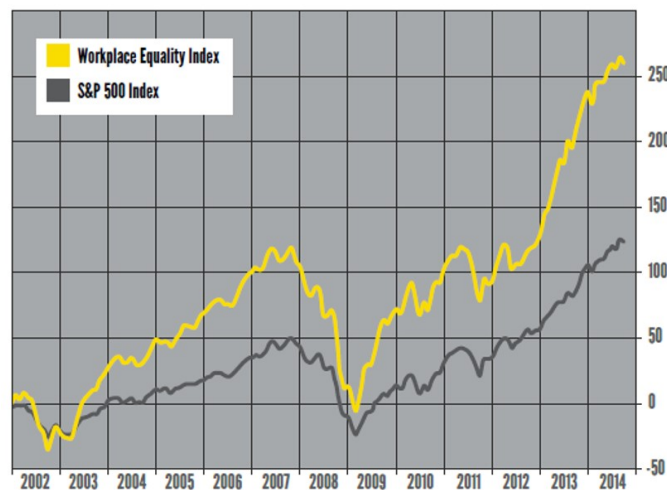
The growth of anti-LGB&T sentiment in some parts of the world is a concern for the global businesses community . . . Experience has taught that open, inclusive, diverse societies are better for business, and the response of many global companies to anti-LGB&T laws is a clear indication of the concern caused.¹⁰³

67. This sentiment is echoed by KPMG in their submission to the inquiry:

It is simply good for business, whether by getting the most out of LGBT employees or gaining access to a more diverse customer base with the impact of creating better conditions for those who most need reform.¹⁰⁴

68. There is a large body of evidence suggesting that companies that foster a diverse environment are more successful. For example, organisations which have a long-term commitment to workplace equality, as measured by the Denver Investments Workplace Equality Index, have stronger share market performance over time against the S&P500 Index (see Figure 3).

Figure 3



Source: EQLT, the Workplace Equality Index, Denver Investments, 2014

¹⁰² Open for Business is a coalition of global companies making the case that inclusive, diverse societies are better for business and better for economic growth. See Miller, Jon and Parker, Lucy, *Open for Business: The economic and business case for global LGB&T inclusion*, September 2015. <https://www.brunswickgroup.com/media/604658/Brunswick-Open-For-Business.pdf>

¹⁰³ Ibid.

¹⁰⁴ KPMG, *Submission of written evidence on behalf of Breathe and KPMG LLP*, 2015.

69. This is echoed in research by Open for Business. Of the 20 largest companies in the United States, 14 score 100 per cent in the Human Rights Campaign's Corporate Equality Index (CEI), which rates workplaces based on LGBT equality.¹⁰⁵ Furthermore, analysis of all companies which score 100 per cent on the CEI, shows that they strongly outperformed the S&P500 Index as a whole over a 10 year period.¹⁰⁶

70. Open for Business identifies several factors in the current literature that could explain this correlation. Companies that are more diverse and inclusive are better at attracting and retaining talent. Evidence suggests that they are likely to out-innovate and out-perform competitors. Diverse environments foster "an atmosphere of trust and communication, which is essential to effective teamwork" and improves employee collaboration.¹⁰⁷ A diverse workforce allows companies to align themselves more effectively with an increasingly heterogeneous customer base. Finally, a commitment to diversity can strengthen brand value in a global market that increasingly values social responsibility.

71. These factors were reflected in a number of submissions received by the inquiry. For example, KPMG stated that:

If we send teams to sites which do not reflect the diversity of our clients or the general public, we will fail to be the clear choice for our stakeholders, who are increasingly expecting a diversity of perspective, a breadth of experience and a fresh approach.¹⁰⁸

72. While much of this data is based on the experience of Northern-headquartered companies, it is important to note that there is new breed of emerging market multinationals that are beginning to embrace an inclusion and diversity agenda. Of the 100 top emerging market multinationals, 19 have an obvious non-discrimination policy that includes sexual orientation.¹⁰⁹ More, however, needs to be done to bridge the gap between the experience of business operating from a North American or European base with those based in emerging markets.

73. The implementation of laws and practices that are adverse to LGBT people can present risks for global businesses. As highlighted by Open for Business, discriminatory national legislative landscapes can risk employee safety, create the risk of non-compliance between global codes of conducts and national laws, and create brand and reputational risks.

The costs to the economy

74. There is a growing body of research that suggests that discriminatory legislation and social attitudes can have an adverse effect on whole economies. There is a clear correlation between successful economies and the recognition of the rights of LGBT people. Research by the economist Richard Florida finds a positive relationship between positive public opinion regarding LGBT rights and economic output per person. Drawing on the Gallup World Poll data Florida finds a close statistical correlation (0.72) between positive attitudes and economic development (see figure 4).

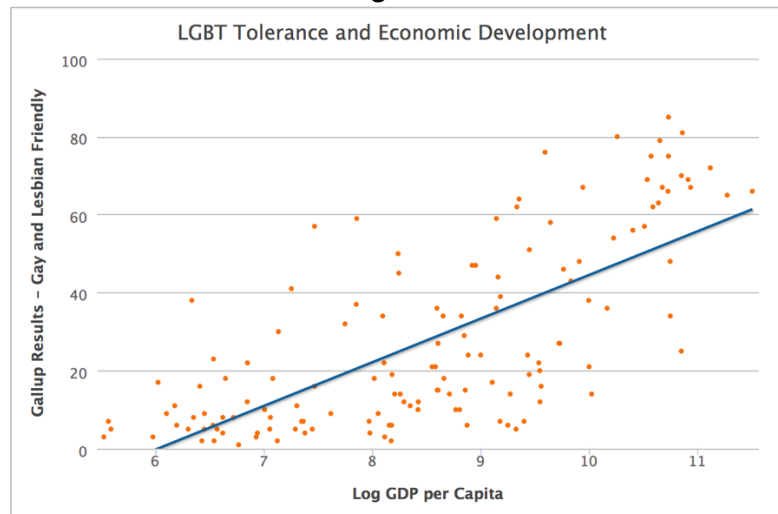
¹⁰⁵ Miller, Jon and Parker, Lucy, *Open for Business: The economic and business case for global LGB&T inclusion*, September 2015. <https://www.brunswickgroup.com/media/604658/Brunswick-Open-For-Business.pdf>

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

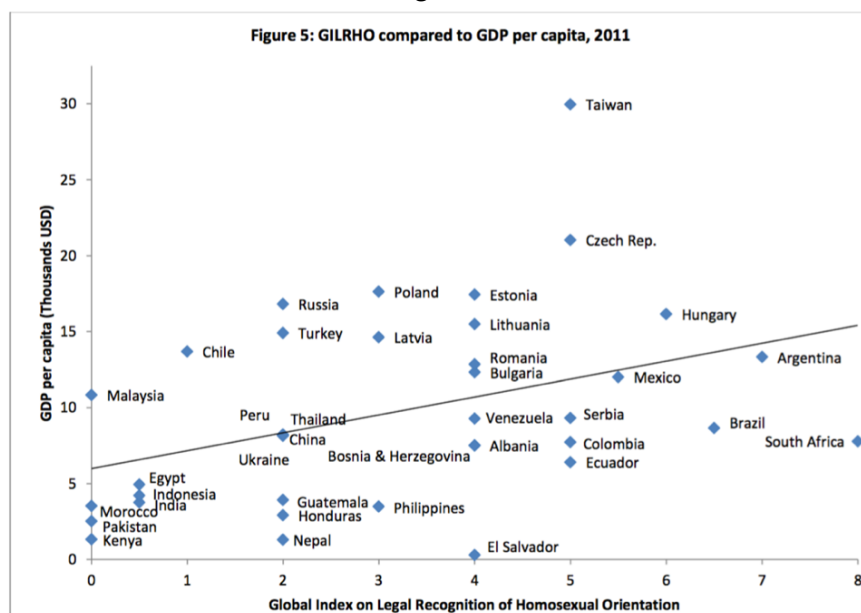
¹⁰⁸ KPMG, *Submission of written evidence on behalf of Breathe and KPMG LLP*, 2015.

¹⁰⁹ Miller, Jon and Parker, Lucy, *Open for Business: The economic and business case for global LGB&T inclusion*, September 2015. <https://www.brunswickgroup.com/media/604658/Brunswick-Open-For-Business.pdf>

Figure 4

Source: Florida, R. *The Global Map of Homophobia*, 2014.

75. This connection is also demonstrated by Professor Lee Badgett and research by the Williams Institute. Mapping the GDP per capita of 39 countries against how well they score on the The Global Index on Legal Recognition of Homosexual Orientation (GILRHO) shows a similar positive correlation (see Figure 5).¹¹⁰ This pattern is repeated in the relationship between GILRHO scores and a country's performance on the Human Development Index.¹¹¹

Figure 5

Source: M.V. Lee Badgett et al, *The Relationship between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies*, 2014.

¹¹⁰ The GILRHO Index scores countries on their performance on 8 legal aspects of recognising the rights of LGBT people. Badgett, M. V. Lee, Sheila Nezhad, Kees Waaldijk, and Yana van der Meulen Rodgers. *The Relationship between LGBT Inclusion and Economic Development: An Analysis of Emerging Economies*. The Williams Institute, 2014.

¹¹¹ The Human Development Index is designed as a partial measure of certain freedoms in a country and is based on life expectancy, years of schooling, and per capita income.

76. On a national level, research on the Indian economy conducted by the World Bank suggests that the exclusion from health, education, housing and employment faced by LGBT people has a whole economy cost of between 0.1 - 1.7 per cent of GDP.¹¹² However, the lack of solid data, particularly in low and middle income countries, limits the ability to make precise claims about the cost of LGBT exclusion. More research is needed, particularly at a granular level, which could then be used with existing analytical tools to estimate better the total cost of LGBT exclusion and provide stronger and more compelling evidence for policy makers.

77. While cautioning against misreading correlation as causation, Open for Business suggests that there may be a number of factors that link the realisation of rights for LGBT people with improved economic performance.¹¹³ In their review of existing research they find evidence that LGBT inclusion, and indeed greater diversity more broadly, can promote higher levels of entrepreneurship, higher levels of Foreign Direct Investment and create stronger links with global markets. Anecdotally, there is evidence of a so-called 'brain drain' from jurisdictions where LGBT people face criminalisation and discrimination. In particular, Open for Business find a strong correlation between levels of corruption and LGBT discrimination.¹¹⁴

78. It is important to note that correlation does not equal causation. The current state of evidence around the links between the legal and social discrimination and economic performance is careful to avoid suggesting a direct causal relationship between the two. However, as pointed out by Open for Business:

One thing is clear, however: time and time again we see that LGB&T inclusion goes hand-in-hand with a range of indicators of economic growth, business performance and individual productivity, as well as measures of entrepreneurialism, innovation and non-corruption.¹¹⁵

¹¹² Badgett, M. V. Lee. *The Economic Cost of Stigma and the Exclusion of LGBT People: A Case Study of India*. World Bank, 2014. <http://documents.worldbank.org/curated/en/2014/10/23952131/economic-cost-stigma-exclusion-lgbt-people-case-study-india>

¹¹³ Miller, Jon and Parker, Lucy, *Open for Business: The economic and business case for global LGB&T inclusion*, September 2015. <https://www.brunswickgroup.com/media/604658/Brunswick-Open-For-Business.pdf>

¹¹⁴ Open for Business found a correlation (0.44) between countries that ranked poorly on Transparency International's Corruption Perception Index and those that ranked poorly as a "good place for lesbians and gays" in data from the Gallup World Poll. See Ibid.

¹¹⁵ Ibid.

Chapter 3: The nature of recent UK responses to these breaches of rights and the impact and efficacy of such responses

79. For more than a decade, the British government has been increasingly active in supporting LGBT rights as a part of its foreign and international development policy. On the whole government responses to the breaches of LGBT rights across the world have been welcomed by contributors to the inquiry, both in reaction to crisis situations and as an emerging thread in long term foreign and development policy.

80. Commitment to support the rights of LGBT people, domestically and globally, have come from the highest levels of government. In his 2015 Party Conference speech, the Prime Minister emphasised the integral role of the Conservative government in supporting equality for LGBT people domestically, and has spoken out publicly in defence of the rights of LGBT people around the world.¹¹⁶ In her recent speech to mark International Human Rights Day, Baroness Anelay, Minister of State at the Foreign & Commonwealth Office, highlighted the role of British diplomatic pressure in upholding the rights of LGBT people in Belize, Mozambique, Uganda, Nigeria and in the Commonwealth.¹¹⁷ Baroness Verma, Parliamentary Under-Secretary of State for the Department of International Development, has regularly spoken publicly about her department's commitment to the inclusion of LGBT rights in international development policy and practice.¹¹⁸ The Coalition government's 2010-2015 equality policy contained substantive and concrete actions to support the rights of LGBT people both domestically and internationally.¹¹⁹

81. While these commitments are welcome, witnesses to the inquiry felt that they were yet to be matched by adequate resourcing, both in terms of internal capacity, external financial support and political capital. Despite the existence of the 2010-2015 Equality Policy, witnesses felt that cross-departmental co-ordination was patchy at best. Concerns were raised about the current lack of a cross-government policy on supporting LGBT rights internationally and the lack of a publicly accountable figure to develop, manage and implement such a policy.

82. Recent government interventions considered by the inquiry have largely been along three lines: within foreign policy, the incorporation of LGBT rights into international development policy and, finally, in recognising the specific needs of LGBT asylum seekers.

Foreign and Commonwealth Office

83. The use of British foreign policy to support the rights of LGBT people was largely welcomed by witnesses. Evidence submitted to the inquiry focused on several key areas of British foreign policy:

- a. British interventions in multilateral forums;
- b. Support for the rights of LGBT people through diplomatic missions;
- c. The role of private diplomacy and public interventions;

¹¹⁶ Cameron, David, *Prime Minister: Conference speech 2015*, October 2015.

<http://press.conservatives.com/post/130746609060/prime-minister-conference-speech-2015>

¹¹⁷ Baroness Anelay, *Speech for International Human Rights Day*, 9 December 2015.

<https://www.gov.uk/government/speeches/baroness-anelay-speech-for-international-human-rights-day>

¹¹⁸ For example, see, Baroness Verma, *Interview: Universal human rights belong to all of us*, 24 November 2015.

<http://cpf.commonwealthfoundation.com/universal-human-rights-belong-to-all-of-us/>

¹¹⁹ HM Government, Policy Paper: Working for Lesbian, Gay, Bisexual and Transgender Equality: Moving Forward, March 2011. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85482/lgbt-action-plan.pdf

- d. The priority placed on human rights in foreign policy; and,
- e. The need for high level strategy, in order to maximise the effectiveness of mainstreaming human rights responsibilities.

84. The UK government, primarily through the Foreign and Commonwealth Office (FCO), has been active in key intergovernmental spaces in ways that have been largely seen as strategic, appropriate and successful. This includes:

- a. The UK becoming a member of the UN LGBT Core Group in New York, an informal network of UN member states which ensure that the rights of LGBT persons are appropriately protected in UN forums;
- b. Foreign and Commonwealth Office support for the September 2014 UN Human Rights Council Resolution on Sexual Orientation and Gender Identity;
- c. the use of Universal Periodic Review mechanisms to raise LGBT human rights issues, including in the 2014-15 reviews of Cyprus, Dominica, Italy, Guyana, San Marino and Uruguay; and,
- d. Visible and behind the scenes support for LGBT rights during the 2015 Commonwealth Heads of Government Meeting (CHOGM) in Malta.

85. One of the key factors identified in the success of British interventions in multilateral spaces has been the strategic deployment of diplomatic resources behind the scenes in support of other actors who are leading initiatives to defend the rights of LGBT people.¹²⁰ This has been most apparent in the use of British diplomacy to encourage and support the efforts of states from the Global South and East in arenas such as the United Nations. Such support was vital in securing consensus for key UNHRC resolutions on sexual orientation and gender identity in 2011¹²¹ and 2014, proposed respectively by South Africa and a coalition of Latin American states.¹²²

86. British interventions in support of LGBT rights in the Commonwealth have been evolving. At the 2011 CHOGM, the Prime Minister threatened to withhold aid from countries that violate the human rights of LGBT people, although the Royal Commonwealth Society suggested that this was seen as counterproductive, potentially stalling progress in the Commonwealth and prompting backlashes in the countries that were the target of his criticism.¹²³ However, there appears to have been a shift in the UK's approach to addressing sexual orientation and gender identity in the context of the Commonwealth. In its 2014 Human Rights and Democracy Report, the FCO stated that,

We believe that the Commonwealth's non-governmental networks provide an excellent forum in which to discuss issues that are difficult to discuss at an intergovernmental level. In 2014 we made good use of these networks – academic, professional and civil society – to increase the debate on a wide range of human rights issues, including on LGB&T rights.¹²⁴

¹²⁰ See submissions from Stonewall and the Kaleidoscope Trust

¹²¹ *Human Rights Council resolution - Human rights, sexual orientation and gender identity* Council A/HRC/RES/17/19. 2011. <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx>

¹²² The 2014 resolution was proposed by Brazil, Chile, Colombia and Uruguay. See *Human Rights Council resolution - Human rights, sexual orientation and gender identity* A/HRC/27/L.27/Rev.1. 2014.

<http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTUNResolutions.aspx>

¹²³ BBC, *Cameron threat to dock some UK aid to anti-gay nations*, 30 October 2011. <http://www.bbc.co.uk/news/uk-15511081>

¹²⁴ Foreign and Commonwealth Office, *Human Rights and Democracy: The 2014 Foreign & Commonwealth Office Report*, March 2015. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/415910/AHRR_2014_Final_to_TSO.pdf

87. The strategic use of civil society spaces in the 2015 CHOGM was an example of the shift of focus toward the non-governmental Commonwealth. FCO collaboration with a broad range of civil society actors, such as the Commonwealth Equality Network, saw the first formal inclusion of LGBT rights on the wider CHOGM agenda and contributed to the inclusion of language opposing violence in the Commonwealth Leader's Communiqué.¹²⁵ The visible support of Baroness Verma, Parliamentary Under-Secretary of State for DFID, for the rights of LGBT people during the CHOGM helped to highlight the issue in a way that avoided the confrontations of earlier CHOGMs.

88. At a country and regional level the FCO has provided both financial and political support for national LGBT organisations and initiatives. The FCO has funded national and/or regional programmes, such as support for bilateral training programmes in countries including Armenia, Jamaica and Montenegro in 2014-2015.¹²⁶ The department has also worked in consultation with LGBT activists to raise issues with national governments in a wide range of countries (including Ethiopia, the Gambia, Russia and Uganda), both privately and sometimes through public statements.

89. Support from missions need not always be financial. Visible support for the rights of LGBT people through events, participation in Pride marches and opening up spaces for LGBT groups to meet can contribute to improving the lives of LGBT people. The FCO states that:

A number of Embassies and High Commissions across the globe marked the International Day against Homophobia and Transphobia (IDAHOT) in May by holding events with civil society and local LGB&T organisations. Staff also attended Pride marches and organised events around them. Examples in 2014 included a pre-Pride reception to mark Delhi Queer Pride, and a video blog by our High Commissioner in Pretoria. In Trinidad & Tobago, the High Commission has facilitated bi-monthly safe space coffee mornings for the LGB&T community, with discussions on how they can best defend their rights.¹²⁷

90. The doubling of FCO's annual funding for its human rights and democracy programme (the Magna Carta Fund for Human Rights and Democracy) is welcome.¹²⁸ However, the stipulation that recipients of the fund must be registered in their country of operation limits the ability of grassroots LGBT organisation to benefit from the fund. In many countries of concern LGBT organisations are effectively prevented from registering by their own governments.

91. At both the multilateral and bilateral levels, there is a tension between the use of public interventions and that of private diplomacy when confronting the rights violations faced by LGBT people. Recent statements by the Foreign Secretary Phillip Hammond have foregrounded the department's use of private diplomacy. Speaking on the FCO's current strategy regarding human rights, he stated that:

Quiet and continued engagement behind the scenes, nurturing a relationship and not being afraid to raise testing issues in private can

¹²⁵ The Kaleidoscope Trust, *2015 CHOGM Communiqué includes language that can advance the rights of LGBT people*, 4 December 2015. <http://kaleidoscopetrust.com/news/98>

¹²⁶ Stonewall, *Submission to the APPG on Global LGBT Rights*, September 2015.

¹²⁷ Foreign and Commonwealth Office, *Human Rights and Democracy: The 2014 Foreign & Commonwealth Office Report*, March 2015. p63-4.

¹²⁸ Foreign and Commonwealth Office, *Launch of £10m Magna Carta Fund for Human Rights and Democracy*, 16 January 2015. <https://www.gov.uk/government/news/launch-of-10m-magna-carta-fund-for-human-rights-and-democracy>

sometimes achieve surprising results; lecturing people in public doesn't always work, and can sometimes prove counter-productive. Just because the British Government isn't shouting about an issue from the rooftops, doesn't mean we aren't assiduously pursuing a case in private. It will depend on how best we believe we can achieve the success or shift in circumstances that we seek.¹²⁹

92. This sentiment has been echoed by Baroness Anelay:

So to those who say we should simply shout louder, I say we should focus on what works. Where we can, we will work with and persuade – rather than shout down – international partners. Achieving results requires commitment to building a trusted relationship . . . Private diplomacy does not mean pulling our punches. I believe that tough messages, delivered by trusted partners, hit home. Whereas tough messages, shouted from a distance, are barely heard.¹³⁰

93. An approach that, as a default, prioritises quiet diplomatic engagement over public condemnation, was welcomed by contributors to the inquiry.¹³¹ However it is important that quiet diplomacy and a 'do no harm' approach do not prevent stronger, public diplomatic censure where this is necessary. The experience of civil society actors in resisting Uganda's Anti-Homosexuality Act, for example, suggest that particular circumstances can trigger the use of stronger interventions including public censure, targeted travel bans and re-allocation of bilateral government support.

94. Concerns remain about the extent to which the rights of LGBT people, and indeed human rights in general, are prioritised within the current foreign policy portfolio. The Human Dignity Trust, amongst others, raised concerns that the rights of LGBT people had never been one of the FCO's stated human rights priorities, making it difficult to resource LGBT specific work and to hold the department to account.¹³² These concerns are amplified by the perceived de-prioritisation of human rights within the FCO, in favour of pursuing a 'prosperity agenda'. In evidence given to the Foreign Affairs Committee, the Permanent Secretary to to Foreign and Commonwealth Office, Sir Simon McDonald, stated that:

I say that although it [human rights] is one of the things we follow, it is not one of our top priorities. In a more constrained environment, the need to concentrate on Europe, Eastern Europe and Russia, and the Middle East has supplanted it to an extent, but in the work I am describing human rights is an integral element. Although, as a Department, it may not have the profile it had in the past, it is still an integral part of our work . . . I would not dispute that right now the prosperity agenda is further up the list.¹³³

¹²⁹ Phillip Hammond, *Promoting human rights is not about who can shout the loudest*, The Independent, 9 December 2015. <http://www.independent.co.uk/voices/promoting-human-rights-is-not-about-who-can-shout-the-loudest-a6767386.html>

¹³⁰ Baroness Anelay, *Speech for International Human Rights Day*, 9 December 2015.

<https://www.gov.uk/government/speeches/baroness-anelay-speech-for-international-human-rights-day>

¹³¹ For example, see submissions from the Kaleidoscope Trust and the Royal Commonwealth Society.

¹³² See Oral Evidence Session 1.

¹³³ Foreign Affairs Committee, *Oral Evidence taken on 15 September 2015*, HC 467, 15 September 2015.

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/foreign-affairs-committee/fco-budget-and-capacity/oral/21587.html>

95. The Foreign Affairs Committee has stated that this apparent downgrading of human rights is “disturbing” and “disappointing.”¹³⁴ In its recently published report, *The FCO’s administration and funding of its human rights work overseas*, the Foreign Affairs Committee finds that “there is plainly a perception that this [de-prioritisation] has occurred.”¹³⁵ This perception is reflected in evidence submitted to this inquiry.

96. However, the Foreign Secretary has strongly contested this assertion. In his response to the recent Foreign Affairs Committee report he stated:

I do not recognise this characterisation of our human rights work. Improving human rights is a core function of the Foreign Office and is the responsibility of every British diplomat around the world. The UK supports over 75 human rights projects in more than 40 countries and this year we are doubling the funding available for human rights projects to £10 million – a true measure of the importance we attach to this agenda. By mainstreaming human rights within the Foreign Office, we have ensured it will always be a central part of our diplomacy, delivering tangible results.¹³⁶

97. The decision of the Foreign Secretary not to fly the Rainbow Flag at FCO buildings during Pride events has added to the perception that LGBT rights specifically are being downgraded by the department. As stated by Paul Dillane of the UK Lesbian and Gay Immigration Group, “the FCO’s decision not to fly the flag has symbolic ramifications and is seen as symbolic of a lack of overall strategy.”¹³⁷ This concern is echoed by the Foreign Affairs Committee:

The decision by the current Foreign Secretary not to fly the Rainbow Flag at FCO buildings for Pride 2015 signalled an apparent change in FCO policy and sent a message that contradicts much of the actual work and objectives of the FCO.¹³⁸

98. The Foreign Affairs Committee has called for this decision to be reversed, a recommendation supported by the APPG LGBT.

99. The need to defend human rights is inextricably bound to other foreign policy objectives. Policies that focus on prosperity cannot be successful if they are pursued in isolation from policies that promote respect for human rights. There is substantial evidence showing that environments that foster respect for human rights have better national economic outcomes and are better places to do business. Any apparent shift in British foreign policy emphasis toward a prosperity agenda requires advocates of human rights to restate the links between rights and economic development generally and suggests that more research is needed to evidence further the relationship with LGBT rights specifically.

¹³⁴ Foreign Affairs Committee, *The FCO and the 2015 Spending Review*, 22 October 2015. <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmfaff/467/46702.htm>

¹³⁵ Foreign Affairs Committee, *The FCO’s administration and funding of its human rights work overseas: Fourth Report of Session 2015–16*, 5 April 2016. <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmfaff/860/86002.htm>

¹³⁶ Foreign and Commonwealth Office, *Foreign Secretary comments on the Foreign Affairs Committee report on human rights*, 5 April 2016. <https://www.gov.uk/government/news/foreign-secretary-comments-on-the-foreign-affairs-committee-report-on-human-rights>

¹³⁷ Paul Dillane, see Oral Evidence Session 3.

¹³⁸ Foreign Affairs Committee, *The FCO’s administration and funding of its human rights work overseas: Fourth Report of Session 2015–16*, 5 April 2016. <http://www.publications.parliament.uk/pa/cm201516/cmselect/cmfaff/860/86002.htm>

100. The recent statement by Baroness Anelay confirming that responsibility for human rights is to be mainstreamed across the department is welcome.¹³⁹ Mainstreaming in and of itself, however, may act to entrench existing concerns about a lack of communication of good practice between country- and region-level officers and posts. While good practice is occurring at the country and regional level, there appears to be little in the way of formal mechanisms that exchange good practice. While the introduction by the FCO of an LGBT Toolkit has been welcomed, the Toolkit was launched in 2008 and has not been recently updated.¹⁴⁰ It remains unclear as to the extent to which sexual orientation and gender identity are included in other FCO mechanisms for communicating the promotion of human rights at post. As responsibility for human rights devolves to country desks and diplomatic missions it will be necessary to ensure that mechanisms exist to allow staff to communicate and learn from good practice regarding the promotion and protection of the human rights of LGBT people.

101. Furthermore, devolving responsibility for human rights does not allay the concerns raised by witnesses about the lack central strategy to support the rights of LGBT people. A number of witnesses felt that despite departmental good will, the lack of a unifying or coherent approach supporting LGBT rights, was limiting the effectiveness of British foreign policy.¹⁴¹ For example, Claire House of Stonewall commended the use of Universal Periodic Review mechanisms to raise LGBT rights, but pointed out that the ad hoc nature of their use indicated a lack of overall strategic focus.¹⁴² This lack of a clearly defined approach, with clearly identified and realisable objectives, is limiting how successful the FCO can be in achieving concrete change for LGBT people. As stated by Jonathan Cooper of the Human Dignity Trust:

There is a general warm commitment to the issue, that runs across the Foreign Office and DFID. However, there is a lack of a clear strategic approach, stating what [the FCO's] objectives are and why [they] are pursuing them, and how these objectives are realisable. A clearly defined approach could support the reduction in the number of jurisdictions that criminalise considerably in the next five to ten years. Because they [the FCO] don't have a strategic approach, this is less like to happen.¹⁴³

¹³⁹ Baroness Anelay, *Speech for International Human Rights Day*, 9 December 2015.

<https://www.gov.uk/government/speeches/baroness-anelay-speech-for-international-human-rights-day>

¹⁴⁰ The Kaleidoscope Trust, *Response to the All Party Parliamentary Group's invitation to submit written evidence on the UK's stance on international breaches of LGBT rights*, September 2015.

¹⁴¹ See Oral Evidence Session 1.

¹⁴² Claire House, Oral Evidence Session 1.

¹⁴³ Jonathan Cooper, Oral Evidence Session 1.

Department for International Development

102. The development and publication of a new ‘approach’ to LGBT inclusion within the work of DFID has been noted and welcomed by a number of contributors to the inquiry.¹⁴⁴ While this is a positive development the approach is brief and represents a starting point, rather than a fully realised strategy.¹⁴⁵ The main focus of the approach is welcome:

- a. Building clarity and narrative around non-discrimination in development, positioning LGB&T as a core development issue;
- b. Identifying and engaging with the Southern voices that are beginning to emerge;
- c. Building new relationships (with civil society and the private sector for example) for indirect influence on decision-makers and on society;
- d. Developing and utilising evidence to support sustainable change.

103. Contributors welcomed the linkage of the new approach to the wider development landscape, and in particular the new Sustainable Development Goals (SDGs). While sexual orientation and gender identity are not specifically addressed in the SDGs there is some limited space for development actors to use specific SDGs to implement policies that do not discriminate against populations on the basis of their sexual orientation or gender identity.¹⁴⁶ The new approach stakes out an important global role for DFID to utilise the ‘Leave no one behind’ discourse of the SDGs explicitly to integrate LGBT issues across all spheres of development.

104. The inclusion of sexual orientation and gender identity as part of the social impact analysis in DFID’s Smart Rules which provide the operating framework for the department’s programmatic work is also welcome. However, witnesses raised concerns as to the extent to which the Smart Rules mandate consideration of sexual orientation and gender identity in programme construction.

105. As pointed out by a number of witnesses, DFID’s approach to LGBT inclusion has yet to be translated into significant streams of work. The Institute for Development Studies states that:

It has been widely noted, including by some agencies themselves, that there remains a gap between the profile and status given to LGBT issues in public, and the practical application on the ground. While good practice guides and toolkits are beginning to emerge, very little has been written about what these commitments mean for the day-to-day work of staff based in country offices.¹⁴⁷

106. The level of resourcing of the LGBT inclusion agenda has been identified as a potential obstacle to its successful implementation, both in terms of internal resources to manage and

¹⁴⁴ Including the International HIV/AIDS Alliance, the Institute for Development Studies, the Kaleidoscope Trust and Stonewall.

¹⁴⁵ Department for International Development, *DFID’s approach on lesbian, gay, bisexual and transgender (LGB&T) rights*, 9 February 2016. <https://www.gov.uk/government/publications/dfids-approach-on-lesbian-gay-bisexual-and-transgender-lgbt-rights>

¹⁴⁶ For a comprehensive analysis of how sexual orientation and gender identity can be read into the Sustainable Development Goals see Mills, Elizabeth, ‘Leave No One Behind’: Gender, Sexuality and the Sustainable Development Goals, October 2015. http://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/7104/ER154_LeaveNoOneBehindGenderSexualityandtheSDGs.pdf?sequence=8

¹⁴⁷ The Institute of Development Studies, *Submission to the inquiry of the All Party Parliamentary Group on Global LGBT Rights*, September 2015.

implement the approach and the apparent lack of new streams of funding to support LGBT specific programming. The limited staff resource at the centre was cited by contributors as an obstacle to successful engagement with DFID on LGBT rights and a potential roadblock to successfully implementing the approach.¹⁴⁸ No additional streams of funding for LGBT programming have been publicly identified, raising concerns about how the department plans to match its aspirations with action, particularly given the relative under-resourcing of the sector. Furthermore, there is a need for DFID to clearly identify and track funding of programmatic work with an LGBT component. Such resource tracking needs to be able to disaggregate spending on HIV and MSM, which is potentially over-represented in the LGBT count, impeding accurate analysis of the effectiveness of DFID funding.

¹⁴⁸ See Oral Evidence Session 1.

Home Office

107. UKLGIG and Stonewall, amongst other contributors to the inquiry, welcomed the improvements in asylum policy in recent years. However, concerns remain in three areas: the treatment of LGBT asylum seekers in detention, the specific needs of trans asylum seekers, and the quality of decision making in LGBT asylum cases.

108. The specific needs of LGBT asylum seekers have been a focus of review and reform in recent years. In 2010, the Coalition Government committed to stopping the deportation of asylum seekers fleeing persecution on the basis of their sexual orientation or gender identity.¹⁴⁹ In 2010 the Supreme Court's judgment in *HJ (Iran) and HT (Cameroon) v. Secretary of State for the Home Department* established that claimants could not be expected to conceal their sexuality and that the expectation that they did so was not reasonable grounds for the refusal of asylum.¹⁵⁰

109. In May 2014, the Home Secretary, Theresa May MP, commissioned the Independent Chief Inspector of Borders and Immigration, John Vine, to conduct an investigation into the Home Office's handling of LGB asylum applications. All of the eight recommendations made by the Vine Report aimed at improving the handling of claims on the basis of sexual orientation were accepted by the Home Office. In February 2015, the Home Office issued new policy guidance on sexual orientation claims.¹⁵¹ These were characterised by UKLGIG as a "positive framework in which claims can be determined."¹⁵²

110. Despite this progress concerns remain, particularly about the treatment of LGBT asylum seekers in detention. UKLGIG raised serious concerns regarding the bullying, abuse and harassment of LGBT people in detention. Johnson, a Ugandan refugee, observed:

The whole place was vile. It was so homophobic. One of the guards called me a poof and there were Jamaicans who kept hurling abuse at some Iranian guys – calling them batty men. I was terrified thinking oh my God, I hope they don't know I'm one of them. There were always fights – they would provoke them and the guys would try to fight back. Eventually the gay guys had to be taken out. So it was very scary. It was awful. You can't risk being open about being gay there.¹⁵³

111. UKLGIG reports that LGBT people in detention are often reluctant to report the violence and harassment they face for fear that "such complaints will negatively impact on their asylum claim, fellow detainees will be informed thus placing them in further danger or such a complaint will not be dealt with robustly."¹⁵⁴ It was also pointed out to the inquiry that LGBT claimants considered placed in a catch-22 situation, whereby they are forced into a situation

¹⁴⁹ HM Government, *The Coalition: our programme for government*, May 2010. In https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf

¹⁵⁰ *HJ (Iran) and HT (Cameroon) v. Secretary of State for the Home Department*, [2010] UKSC 31, United Kingdom: Supreme Court, 7 July 2010 <http://www.refworld.org/docid/4c3456752.html>

¹⁵¹ Home Office, *Asylum Policy Instruction 'Sexual identity issues in the asylum claims'*, February 2015.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/404372/EXT_Asylum_Instruction_Sexual_Identity_Issues_in_the_Asylum_claim_v5_20150211.pdf

¹⁵² See UKLGIG, *Submission to All Party Parliamentary Group (APPG) On Global LGBT Rights*, September 2015 and PinkNews: *Charity welcomes new Home Office guidance for gay asylum cases*, 17 February 2015.

<http://www.pinknews.co.uk/2015/02/17/charity-welcomes-new-home-office-guidance-for-gay-asylum-cases/>

¹⁵³ UKLGIG, *Submission to All Party Parliamentary Group (APPG) On Global LGBT Rights*, September 2015.

¹⁵⁴ *Ibid.*

where they must hide their identity to survive detention, while having to prove their status order to support their claim.

112. Concerns remain as to the treatment of those seeking asylum on the basis of their gender identity. The Vine Report did not address, critique nor make recommendations regarding the Home Office's treatment of trans people or the handling of gender identity asylum claims. The Home Office has yet to review policy guidance on gender identity claims which were issued in 2011.¹⁵⁵ The policy guidance has been described as "vague, open to misinterpretation, and, often based on normative assumptions."¹⁵⁶ Adam, a trans man and refugee from Egypt, commented:

I was refused asylum three times. At first I didn't even have a lawyer. When I was interviewed the Home Office's interpreter told the official, "This is one of the strangest interviews I've ever done." The Home Office refused to believe that I am trans, they treated me like a liar. They continuously referred to me as a woman. I felt like they were attacking me.¹⁵⁷

113. Moreover, trans people remain "particularly vulnerable to physical, sexual and emotional abuse within asylum detention centres and community-based single sex shared accommodation" and thus "at a high risk of self-harm or suicide" during the asylum process.¹⁵⁸

114. Submissions to the inquiry suggest that, almost one year on, the 2015 guidance has not yet been fully implemented, with applicants seeking asylum on the basis of sexual orientation and gender identity still often incorrectly refused.¹⁵⁹ Witnesses repeatedly described decision making on sexual orientation and gender identity as poor. The range of obstacles facing LGBT applicants in navigating the complex and frequently unsympathetic asylum system in the UK are poorly understood by claim assessors. Due to multiple layers of discrimination and often traumatic histories, LGBT asylum seekers are invariably highly marginalised in society and isolated from their communities and families. Many experience feelings of profound shame and/or internalised homophobia, which impacts on their ability to present their asylum claims.¹⁶⁰

115. Despite the Home Office's commitment to do so under the recommendations of the Vine Report, data regarding the number of asylum claims made, accepted and rejected on the basis of sexual orientation in the UK are still not publicly available, though the Home Office is currently assessing the feasibility of doing so.¹⁶¹ Nonetheless, this lack of this data was cited as an impediment the ability of civil society to hold the Home Office to account and to advocate effectively on behalf of claimants.¹⁶² In particular, this lack of externally available

¹⁵⁵ Home Office: Asylum Policy Instruction 'Gender identity issues in the asylum claims' (2011)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/257387/genderissueintheasylum.pdf

¹⁵⁶ Bach J, 'Assessing transgender asylum claims'; Forced Migration Review, 'Sexual orientation and gender identity and the protection of forced migrants' (Issue 42 / April 2013) – Page 33-36 <http://www.fmreview.org/soqi>

¹⁵⁷ UKLGIG, *Submission to All Party Parliamentary Group (APPG) On Global LGBT Rights*, September 2015

¹⁵⁸ Cowen T, Stella F, Magahy K, Strauss K and Morton J, 'Sanctuary, Safety and Solidarity Lesbian, Gay, Bisexual, Transgender Asylum Seekers and Refugees in Scotland' (2011) http://www.gla.ac.uk/media/media_195792_en.pdf

¹⁵⁹ See Stonewall, *Submission to the APPG on Global LGBT Rights*, September 2015 and UKLGIG, *Submission to All Party Parliamentary Group (APPG) On Global LGBT Rights*, September 2015

¹⁶⁰ UNHCR, 'Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees' (2012) <http://www.refworld.org/pdfid/50348afc2.pdf>

¹⁶¹ See Lord Bates, Asylum: LGBT People: Written question - HL4122, 8 December 2015.

<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2015-12-01/HL4122/>

¹⁶² See Oral Evidence Session 3.

data makes it difficult to assess how successful the government has been in keeping to its commitment to stop the removal of LGBT people where there is a proven risk of imprisonment, torture or execution.

Chapter 4: Guidelines from around the world of successful interventions in response to these breaches of rights

Supporting local agents of change

116. It is vital that local, national and regional LGBT communities, organisations and their allies are at the forefront of tackling discrimination on the basis of sexual orientation and gender identity. Local actors bring an unparalleled level of expertise, are seen as authentic and can act to defuse the perception that LGBT rights are being imposed as part of an external political or ideological agenda. In their submission to the inquiry, Freshfields Bruckhaus Deringer state that:

Lasting reform is most successfully achieved through community engagement which drives for consensus. Reform which is imposed upon communities, especially by external pressure perceived (rightly or wrongly) as elite or 'Western' can consolidate opposition and prompt backlash.¹⁶³

117. The support for LGBT rights by Western or Northern governments has been characterised by some as an imposition of 'Western' values on cultures which do not recognise such rights, and can be counter-productive. While this does not in and of itself preclude high-profile or public interventions from non-local actors, it does mean that such interventions need to be carefully calibrated and supported by local LGBT organisations and leaders.

118. Furthermore, it is widely accepted that national and local LGBT organisations are best placed to understand the unique political, cultural and social contexts of their country. For example, working within existing cultural norms identified by local actors can improve the effectiveness of interventions. The success of securing the legal recognition of trans people by introducing a third gender option in legal identity, illustrates how interventions based on local cultural contexts can be successful. In South Asia, where traditional 'third gender' categories such as *hijra* have historical and cultural resonances, countries such as Bangladesh¹⁶⁴, India¹⁶⁵, Nepal¹⁶⁶ and Pakistan¹⁶⁷ have introduced measures to recognise third gender identities in law and in some cases provide explicit government support to these communities.

119. The mobilisation of opposition to, and the eventual repeal of, Uganda's Anti-Homosexuality Act has been cited as an example of how external pressure, both overt and covert, that is responsive to strategies of national civil society, can be effective in supporting the rights of LGBT people. Close working relationships between international actors and national civil society was instrumental in its successful repeal. A range of policy options, prepared in advance by a coalition of Ugandan civil society organisations, allowed

¹⁶³ Freshfields Bruckhaus Deringer, *Submission to the All Party Parliamentary Group on Global LGBT Right*, September 2015.

¹⁶⁴ Karim, Mohosinul. "Hijras now a separate gender ." *Dhaka Tribune*, 11 November 2013.

<http://www.dhakatribune.com/bangladesh/2013/nov/11/hijras-now-separate-gender>

¹⁶⁵ Mahapatra, Dhananjay. "Supreme Court recognizes transgenders as 'third gender'." *The Times of India*, 15 April 2014.

<http://timesofindia.indiatimes.com/India/Supreme-Court-recognizes-transgenders-as-third-gender/articleshow/33767900.cms>

¹⁶⁶ Cantera, Angel . "Nepal's 'third gender'." *AlJazeera.com*, 12 March 2014. Available:

<http://www.aljazeera.com/indepth/features/2014/03/nepal-third-gender-201431181229222617.html>

¹⁶⁷ BBC News. "Pakistan transgenders pin hopes on new rights." *BBC News*, 25 April 2011.

<http://www.bbc.co.uk/news/world-south-asia-13186958>

international actors to respond quickly to the passage of the Act.¹⁶⁸ As noted by the Human Dignity Trust:

From our discussions with activists in Uganda, we understand that a confluence of actions pushed the Act to the top of the agenda of Uganda's leaders and hastened its annulment, namely: overt diplomacy from the US (visa bans) and EU countries (cutting or diverting aid), private diplomacy from the UK.¹⁶⁹

120. Despite this, LGBT civil society organisation remain poorly funded. Submissions from the Kaleidoscope Trust and Stonewall highlighted the underfunding of grassroots organisations. In its recent consultation with grassroots LGBT organisations, Stonewall found that under-resourcing was:

. . . particularly the case for organisations in Africa, Asia, and Latin America and the Caribbean. Grass roots organisations working beyond a narrow focus on sexual orientation equality, or which were disconnected from HIV/AIDS or health-based movements, were also particularly likely to report underfunding. A significant barrier to funding is often the stipulation that recipient groups need to be legally registered organisations, something that many organisations are prevented from doing by their own governments.¹⁷⁰

121. While mapping of the funding received by LGBT civil society organisations worldwide is incomplete, existing research suggests that it woefully inadequate. Analysis of grant-making by US-based foundations found that in 2013 \$US24.6 million (£17.1 million) was awarded to international LGBT issues and LGBT communities outside the U.S.¹⁷¹ While this was an increase from a total of \$US20 million in 2012, it represents less than a quarter of all LGBT-focused grant-making by US foundations. To put this amount in context, for every 100 dollars awarded by US foundations only 24 cents goes to LGBT issues, of those 24 cents only 5 cents are allocated to supporting LGBT rights internationally.¹⁷² While there are limits to extrapolating these figures internationally, it does suggest that the funding of international LGBT rights issues is incredibly limited.

122. Concrete figures mapping state funding of international LGBT civil society through bilateral and multilateral development budgets are even harder to come by. There are currently no internationally recognised standards for marking or tracking funding focused on sexual orientation and gender identity through mechanisms like the OECD's Development Assistance Committee. Projects to map comprehensively the funding of LGBT civil society globally are beginning to emerge.¹⁷³

123. The inadequacy of funding to support LGBT specific programming and advocacy at the local and national level is thrown into high relief by the amount of funding available to those opposed to the realisation of rights by LGBT people. As pointed out by Dr Felicity Daly of the Kaleidoscope Trust:

¹⁶⁸ The guidance issued by Ugandan civil society is available from: Stewart, Colin, *LGBT Ugandans: Here's how you can help us*, 4 March 2014. <http://76crimes.com/2014/03/04/lgbt-ugandans-heres-how-you-can-help-us/>

¹⁶⁹ Human Dignity Trust, *Written Evidence for the All Party Parliamentary Group on Global LGBT Rights, on the UK's stance on international breaches of LGBT rights*, 2015.

¹⁷⁰ Stonewall, "Submission to the APPG on Global LGBT Rights", September 2015.

¹⁷¹ Funders for LGBTQ Issues, *2013 Tracking Report: Lesbian, Gay, Bisexual, Transgender and Queer Grantmaking by U.S. Foundations*, 2014. http://www.lgbtfunders.org/files/2013_Tracking_Report.pdf

¹⁷² Ibid.

¹⁷³ See Oral Evidence Session 1.

We're out-funded by quite a lot, the resource gaps between LGBT groups and the faith groups that oppose them is large.¹⁷⁴

124. This point is echoed by Funders for LGBTQ Issues:

We must recognize that we are up against a competing stream of support for LGBTI-related issues: US-based evangelical Christian entities who have thrown both political and economic weight behind initiatives like Uganda's anti-homosexuality bill.¹⁷⁵

125. Evidence submitted to the inquiry suggested that strong, well-resourced national civil societies are instrumental, both in achieving positive change and in resisting regressive policies and legislation. A number of witnesses pointed to the success of the Civil Society Coalition on Human Rights and Constitutional Law (CSCHRCL) in Uganda in opposing the Ugandan Anti-Homosexual Act.¹⁷⁶ Supporting the development of a robust civil society requires long term investment, both financially and politically. To do so pays dividends, however, not just in terms of strengthening the most effective drivers of domestic change, but also in developing local partners who can offer expert advice to international actors.

126. The vital role of local, national and regional LGBT civil society is twofold. Firstly, civil society organisations need material and political support in order to press for change in their domestic contexts. Secondly, the interventions of external actors such as governments, international civil society and the private sector, need to be constructed in reference to local civil society priorities and strategies.

Supporting incremental change

127. The importance of identifying and supporting incremental internal change was identified by several witnesses. More modest, and achievable, policy changes can both set the scene for later decriminalisation and can have a more immediate effect on improving the lives of LGBT people. For example, Belize's new gender policy enshrines respect for citizens' diversity, including that of sexual orientation, within the government's operations.¹⁷⁷ A number of criminalising countries have in place legislation that bans discrimination on the basis of sexual orientation, including Botswana¹⁷⁸, Seychelles¹⁷⁹, Mauritius¹⁸⁰ and Mozambique.¹⁸¹

128. Incremental change can also occur through judicial activism. In Kenya and Botswana the High Courts have censured governments for refusing to register LGBT advocacy

¹⁷⁴ See Oral Evidence Session 1.

¹⁷⁵ Funders for LGBTQ Issues, *A Global Gaze: Lesbian, Gay, Bisexual, Transgender and Intersex Grantmaking in The Global South and East*, 2010. https://www.lgbtfunders.org/files/A_Global_Gaze_2010.pdf

¹⁷⁶ The Civil Society Coalition on Human Rights and Constitutional Law is an umbrella group of Ugandan civil society organisations formed in 2009 to oppose the Ugandan Anti-Homosexuality Act and to strengthen the capacity of civil society to engage in debates around the bill.

¹⁷⁷ Belize National Women's Commission, 2013. Revised National Gender Policy. Version 2 March 2013. See page 10.

¹⁷⁸ *Botswana Employment Amendment Act*, 2010.

¹⁷⁹ *Seychelles Employment Act*, 1995.

¹⁸⁰ *Mauritius Equal Opportunity Act*, 2008.

¹⁸¹ *Mozambique Labour Law*, 2007. The Act became law while same-sex activity was still illegal.

organisations and have been effective in defending the space in which civil society has to advocate for the rights of LGBT people.¹⁸²

129. Work that acts to broaden the constituency that support equality for LGBT people, such as sensitisation projects with key social guardians such as the police, the judiciary and the legislature, was highlighted by witnesses as a particularly effective strategy.¹⁸³

130. Strengthening respect for the rights of LGBT people can also occur as part of wider legislative reform. For example, the successful reform of colonial penal codes in Mozambique and Lesotho included removing provisions criminalising same-sex activity.¹⁸⁴ The fact that the decriminalisation of same-sex activity in these jurisdictions occurred as part of a wider review of colonial era penal codes, rather than in response to focussed international pressure highlighting the criminalisation of same-sex activity, suggests that in some cases quiet, behind-the-scenes action, allied to wider legislative or policy concerns, can be more effective and productive than public pressure.

Working through multilateral forums

131. While national developments are preferable and are often more impactful, there have been a number of positive developments in multilateral and intergovernmental spaces in recent years. Regional and international bodies open up the possibility of setting policy norms and can provide a space where actors from the Global South and East can take the lead in agitating for progress.

132. The Council of Europe offers a historic model as to how a regional body can act to encourage members to decriminalise, both through judicial censure and when membership is seen as more desirable than maintaining outdated legislation. Three jurisdictions decriminalised as a direct result of court judgments from the Strasbourg Court: Northern Ireland, the Republic of Ireland and Cyprus.¹⁸⁵ The condition of membership that states repeal their criminalising laws led to further national-level progress. Albania joined in 1995 and decriminalised in 1995; Russia joined in 1996 and decriminalised in 1993; Georgia joined in 1999 and decriminalised in 2000; Azerbaijan joined in 2001 and decriminalised in 2000.¹⁸⁶ Submissions to the inquiry by the Human Dignity Trust highlight the possibility of replicating this process in other multilateral and intergovernmental bodies, such as the Organisation of American States and the Organisation for Security and Co-operation in Europe.

133. In 2014 the Africa Commission for Human and People's Rights passed Resolution 275: *Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity*. The document pointedly stated that the Commission is:

¹⁸² See Brooks, Lewis & Stewart, Alistair, *Collaboration and Consensus: Building a Constructive Commonwealth Approach to LGBT Rights* 2015. <https://www.thercs.org/assets/Research-/LGBTCitizenshipReport-130315-FINAL.pdf> for further discussion of these developments.

¹⁸³ See Interview with Caleb Orozco.

¹⁸⁴ BBC, 2015. Mozambique decriminalises gay and lesbian relationships. 1 July 2015. <http://www.bbc.co.uk/news/world-africa-33342963> and Lesotho Penal Code Act, 2010. Act No. 6 of 2012. Government Gazette, Vol. 57, No. 30. Friday-9th March, 2012.

¹⁸⁵ *Dudgeon v. UK* (Northern Ireland, 1981), *Norris v. Ireland* (1988) and *Modinos v. Cyprus* (1993).

¹⁸⁶ For former listed year, see: <http://www.internationaldemocracywatch.org/index.php/council-of-europe->. For latter listed year, see International Lesbian and Gay Bisexual and Trans Association, *State-Sponsored Homophobia – A world survey of laws: Criminalisation, protection and recognition of same-sex love*, May 2013, 8th Edition, pp. 21 and 23, respectively. Available at: http://old.ilga.org/Statehomophobia/ILGA_State_Sponsored_Homophobia_2013.pdf

Alarmed that acts of violence, discrimination and other human rights violations continue to be committed on individuals in many parts of Africa because of their actual or imputed sexual orientation or gender identity; Further alarmed at the incidence of violence and human rights violations and abuses by State and non-State actors targeting human rights defenders and civil society organisations working on issues of sexual orientation or gender identity in Africa; Deeply disturbed by the failure of law enforcement agencies to diligently investigate and prosecute perpetrators of violence and other human rights violations targeting persons on the basis of their imputed or real sexual orientation or gender identity.¹⁸⁷

134. The Resolution goes on to condemn the “the increasing incidence of violence and other human rights violations, including murder, rape, assault, arbitrary imprisonment and other forms of persecution of persons on the basis of their imputed or real sexual orientation or gender identity . . . Specifically . . . the situation of systematic attacks by State and non-state actors.”¹⁸⁸

135. The resolution was welcomed by a coalition of over 50 NGOs drawn from largely from Africa, stating that:

The Resolution provides a legal basis for protection to all those who are suffering and living under the threat of violence because of their sexual orientation and gender identity and expression . . . this Resolution is the first step towards affirming the equality and dignity of all African people who have been targeted and continue to be treated as second-class citizens because of their real or perceived sexual orientation and gender identity and expression.¹⁸⁹

136. In its submission to the inquiry the Commonwealth Secretariat states that it:

Remains steadfast in its position that discrimination has no place in the Commonwealth. Accordingly, through its trusted partnership relationship with member states, the Commonwealth Secretariat continues to address equality and non-discrimination of LGBTI persons and criminalisation of them and their activities, with governments, Parliaments and other democracy strengthening institutions.¹⁹⁰

137. The Secretariat highlights its role working with national human rights institutions and parliamentarians, particularly in Africa and the Pacific, building their capacity to understand the LGBT discourse and to better promote equality and non-discrimination on a national level. The Secretariat also works alongside member states on the implementation of accepted Universal Periodic Review recommendations, which offers “scope for criminal codes to be

¹⁸⁷ The African Commission on Human People’s Rights, 275: *Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity*, 28 April to 12 May, 2014. <http://www.achpr.org/sessions/55th/resolutions/275/>

¹⁸⁸ Ibid.

¹⁸⁹ African Men for Sexual Health and Rights (AMSHER), *Civil Society Organisations Commend the African Commission’s Resolution Condemning Violence Based on Sexual Orientation and Gender Identity*, 2014. <http://www.theinitiativeforequalrights.org/wp-content/uploads/2014/05/CSOs-Statement-on-African-Commission-Resolution-EN.pdf>

¹⁹⁰ The Commonwealth Secretariat, *Submission of the Commonwealth Secretariat to the inquiry of the All Party Parliamentary Group (APPG) on LGBT Rights*, September 2015.

brought into conformity with Commonwealth commitments and international human rights law supporting the principles of equality and non-discrimination.”¹⁹¹

Supporting diverse international leadership

138. Strong international leadership from across the political spectrum can help to bring along ‘the middle ground’ in support of LGBT reform. UN Secretary-General Ban Ki Moon has been consistently and regularly outspoken in his support of the rights of LGBT people.¹⁹² Speaking in 2012 the Secretary-General stated that:

Laws rooted in 19th century prejudices are fuelling 21st century hate. In other cases new discriminatory laws are being introduced. These laws must go. We must replace them with laws that provide adequate protection against discrimination, including on the basis of sexual orientation and gender identity. This is not optional. It is a State obligation, based on the principle of non-discrimination – a fundamental tenet of international human rights law..... It is an outrage that in our modern world, so many countries continue to criminalise people simply for loving another human being of the same sex. In most cases, these laws are not home-grown. They were inherited from former colonial powers... these laws must go.¹⁹³

139. Similar concerns have been expressed by High Commissioner for Human Rights Zeid Ra'ad Al Hussein and his predecessor Navi Pillay.¹⁹⁴

140. In its submission to the inquiry, the Commonwealth Secretariat highlighted that the former Commonwealth Secretary-General, Kamalesh Sharma, regularly spoke out on discrimination against LGBT people in the Commonwealth. This includes statements in his remarks to the Human Rights Council in 2013 and 2015.¹⁹⁵ The Secretary-General has also raised the issue on specific days such as International Human Rights Day¹⁹⁶ and the International Day against Homophobia, Transphobia and Biphobia, when he reminded member states that “much more needs to be done to realise international human rights obligations and to uphold the values of the Commonwealth Charter.”¹⁹⁷

Aid conditionality and travel bans

141. The use of aid conditionality, in particular the threat to remove aid, remains a controversial strategy when addressing the human rights violations faced by LGBT people. For instance, comments by the Prime Minister in 2011 threatening to cut aid to African

¹⁹¹ The Commonwealth Secretariat, *Submission of the Commonwealth Secretariat to the inquiry of the All Party Parliamentary Group (APPG) on LGBT Rights*, September 2015.

¹⁹² For examples see Office of the High Commissioner for Human Rights, *Combating discrimination based on sexual orientation and gender identity - Speeches and statements*, 2015.

<http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBTSpeechesandstatements.aspx>

¹⁹³ Secretary-General's remarks to special event on "Leadership in the Fight against Homophobia", 11 December 2012. <http://www.un.org/sg/statements/index.asp?nid=6504>.

¹⁹⁴ For examples see Office of the High Commissioner for Human Rights, *Combating discrimination based on sexual orientation and gender identity - Speeches and statements*, 2015.

¹⁹⁵ Commonwealth Secretary-General, *Remarks at the High-Level Segment of the Human Rights Council*, 28 February 2013, <http://thecommonwealth.org/media/news/commonwealth-secretary-general-addresses-un-human-rights-council-0>.

¹⁹⁶ Commonwealth Secretary-General, *Human Rights Day statement*, 10 December 2014.

<http://thecommonwealth.org/media/news/secretary-generals-statement-human-rights-day-2014>.

¹⁹⁷ Commonwealth Secretary-General, *Statement for International Day against Homophobia, Transphobia and Biphobia*, 15 May 2015, <http://thecommonwealth.org/media/news/international-day-against-homophobia-transphobia-and-biphobia>.

countries that violate the rights of LGBT people, prompted concern from LGBT civil society on the continent. A statement signed by key African organisations and activists stated that:

While the intention may well be to protect the rights of LGBTI people on the continent, the decision to cut aid disregards the role of the LGBTI and broader social movement on the continent and creates the real risk of a serious backlash against LGBTI people.¹⁹⁸

142. The critique of withdrawing aid is twofold. Firstly, when conducted without consultation with national civil societies, it can act to diminish their role in driving positive change and can entrench the perspective that support for LGBT rights is being driven by international actors. Secondly, there is a real risk that threats to withdraw aid from developing countries can set up unfortunate oppositions between LGBT organisations and the rest of civil society. This is particularly problematic in contexts where the ability to build strong coalitions with other groups and sectors is central to civil society strategies to strengthen support for the rights of LGBT people.

143. Instead of threats of blanket cuts to aid, the strategic re-allocation of aid and the use of reviews of existing funding may be effective in bringing pressure to bear on states that violate the rights of LGBT people. For example, in its guidance to international actors responding to the passage, CSCHRCL, the umbrella body of Ugandan civil society organisations, offered a cautious line on the issue cutting or withdrawing aid:

We do not support General Aid Cuts to Uganda. We do not want the people of Uganda to suffer because of the unfortunate Political choices of our government. However, we support Strategic Aid Cuts to specific sectors, such as the Dutch Government's decision to withdraw funding from the Justice Sector. We encourage urgent review of aid to organizations and government institutions that have failed to demonstrate respect for Human Rights and those that have been actively supporting this bill. We DO NOT support cuts in support to NGO's and other civil society institutions that offer life saving health services or other important social services to the People of Uganda.¹⁹⁹

144. The temporary withholding of development loans to Uganda by the World Bank is an example of how reviewing funding arrangements in light of human rights violations can successfully exert pressure on governments. In response to the passage of the Ugandan Anti-Homosexual Act, the World Bank temporarily suspended a \$US90 million health care loan in order to review the effects of the act on the successful delivery of the objectives of the loan.²⁰⁰ While the loan was eventually approved, the President of the Bank, Jim Yong Kim, suggested that the action had helped to slow the passage of anti-LGBT laws in other countries.²⁰¹

¹⁹⁸ AMSHER, *Statement of African Social Justice Activists on the Decision of the British Government to Cut Aid to African Countries that Violate the Rights of LGBTI People in Africa*, 28 October 2011. <http://www.blacklooks.org/2011/10/statement-of-african-social-justice-activists-on-the-decision-of-the-british-government-to-cut-aid-to-african-countries-that-violate-the-rights-of-lgbti-people-in-africa/>

¹⁹⁹ Stewart, Colin, *LGBT Ugandans: Here's how you can help us*, 4 March 2014. <http://76crimes.com/2014/03/04/lgbt-ugandans-heres-how-you-can-help-us/>

²⁰⁰ Feder, J. Lester, *World Bank Delays \$90 Million Loan To Uganda As Bank President Blasts Anti-Gay Laws*, 27 February 2014. <http://www.buzzfeed.com/lesterfeder/world-bank-delays-90-million-loan-to-uganda-as-bank-president#.sypXjpY53>

²⁰¹ Feder, J. Lester, *World Bank President: Our Efforts Have Slowed Rise of Anti-LGBT Laws*, 9 April 2014. <http://www.buzzfeed.com/lesterfeder/world-bank-president-our-efforts-have-slowed-rise-of-anti-lgbt-laws#.axplrQRxA>

145. Evidence presented to the inquiry suggested that the use of targeted visa bans that limit the ability of politicians and public figures at the forefront of introducing discriminatory legislation to travel to the UK can be an effective means of discouraging support for regressive measures.²⁰² The deployment of travel bans against named individuals overcomes some of the shortcomings of aid withdrawal or conditionality, providing a strong disincentive to politicians who support such measures, while avoiding the perception that those in need of development aid are being punished for national policies. The use of the threat of travel bans by the US in response to the passage of the Ugandan Anti-Homosexuality Act has been cited as one of the factors that led to its eventual repeal.²⁰³

146. While the use of stronger and more censorious policy mechanisms need careful consideration, there are clear triggers to their use. The use of negative policy instruments should be triggered by deteriorating or crisis situations (for example the imminent implementation of legislation, or evidence of widespread state-sponsored violence), or where there is a clear call for their use by national civil society.

The role of faith communities

147. A number of contributors raised the relationship between the discrimination faced by LGBT people and the role of faith communities. Witnesses pointed out that in some cases faith communities and organisations can be drivers for discriminatory practice and legislation.²⁰⁴ It is important to note that faith-based opposition to the rights of LGBT people is not limited to national or regional levels, and in reality engages a complex network of global actors. For example, witnesses pointed out the role US-based religious communities and organisations in supporting and funding, directly and indirectly, political and religious opposition to the advancement of LGBT rights, particularly in Africa and the Caribbean.²⁰⁵ While this dynamic is less prevalent in the UK experience, the role of the Anglican Communion in failing to address the criminalisation and persecution of LGBT people needs to be confronted. In some cases it is the Anglican Church in countries like Belize, Uganda and Nigeria which is leading opposition to the realisation of the rights of LGBT people.²⁰⁶ Faith organisations that are opposed to the rights of LGBT people are also well-funded and well organised in multilateral spaces such as the UN.

148. Witnesses highlighted the need to engage faith communities on two levels. On the one hand there is a role for religious leaders to support LGBT rights, both publicly and privately, and on the other there is a need to work at a grassroots level, building understanding between communities.

149. As identified by Freshfields Bruckhaus Deringer, the support of international religious leaders was necessary to reach out to moderate faith communities. Archbishop Desmond Tutu's ongoing and outspoken support for LGBT equality has been noted.²⁰⁷ The recent *Communiqué from the Primates of the Anglican Communion* also represented progress of a sort. Although the communiqué reasserted the Anglican Communion's opposition to same-sex marriages, it went on to state that:

²⁰² See Felicity Daly, Oral Evidence Session 1.

²⁰³ See Oral Evidence Session 1.

²⁰⁴ Ibid.

²⁰⁵ For a detailed examination of the relationship between the U.S. religious right and anti-LGBT religious sentiment in Africa see, Koama, Kapya, *Globalizing the Culture Wars: U.S. Conservatives, African Churches, & Homophobia*, 2009. <http://www.publiceye.org/publications/globalizing-the-culture-wars/pdf/africa-full-report.pdf>

²⁰⁶ See Oral Evidence Session 1.

²⁰⁷ See for example Maev Kennedy, *Desmond Tutu condemns Uganda's proposed new anti-gay law*, The Guardian, 23 February 2014. <http://www.theguardian.com/world/2014/feb/23/desmond-tutu-condemns-uganda-proposed-anti-gay-law>

The Primates condemned homophobic prejudice and violence and resolved to work together to offer pastoral care and loving service irrespective of sexual orientation . . . The Primates reaffirmed their rejection of criminal sanctions against same-sex attracted people.²⁰⁸

150. It was felt by many contributors that more needed to be done to support the work of human rights advocates that are building networks with faith communities at the grassroots level, and to highlight and support people of faith who are combating discrimination based on sexual orientation and gender identity.²⁰⁹ Faith should not always be seen as an obstacle to the realisation of rights for LGBT people. Many LGBT people and activists are people of faith themselves. As Dr Elizabeth Mills of the Institute of Development studies pointed out, “in every country we work in, faith is both a driver of prejudice, but is also a source of support.”²¹⁰

151. The APPG LGBT looks forward to investigating further the role of faith groups in ending discrimination against LGBT people.

²⁰⁸ Primates of the Anglican Communion, *Communiqué from the Primates of the Anglican Communion*, 15 January 2016. <http://www.primates2016.org/articles/2016/01/15/communique-primates/>

²⁰⁹ Stonewall's recent publication “Christian Role Models” is an excellent example of this. See Stonewall, *Christian Role Models*, 2015. <https://www.stonewall.org.uk/sites/default/files/christian-role-models.pdf>

²¹⁰ See Oral Evidence Session 1.

Chapter 5: The role of the private sector

Private Sector

152. Many witnesses felt that there was a self-evident role for business in supporting the rights of LGBT people and in working to oppose discrimination on the basis of sexual orientation and gender identity. The rationale for private sector action is twofold. Firstly, business has the ability to exert influence throughout operational jurisdictions that can be beyond the reach of government and civil society, most notably within the workplace. Secondly, there is a substantial body of evidence that suggests that diverse workplaces and societies are beneficial to business. As stated by KPMG:

The private sector should be encouraged to take action for two main reasons. Firstly, it has the scope, depth and reach to actually make a contribution. Secondly, it is simply good for business, whether by getting the most out of LGBT employees or gaining access to a more diverse customer base with the impact of creating better conditions for those who most need reform.²¹¹

153. The evidence submitted to the inquiry suggests that business can exercise influence both through its internal policies and in the way in which it engages with external actors, including civil society, states and the general public. KPMG highlights six initiatives that span these internal and external roles and which form a solid basis for good private sector practice:

- a. Supporting LGBT people through workplace policies;
- b. Developing the culture within the organisation to foster LGBT rights;
- c. Taking a visible stand as an organisation and being a thought-leader;
- d. Providing high-level visitation from D&I staff and diversity programmes;
- e. Providing a safe environment for LGBT staff in non-LGBT friendly locations;
- f. Providing support to LGBT organisations and government.²¹²

154. In terms of supporting external actors such as civil society organisations, Out on the Street recommends that, where appropriate, the private sector should:

- a. Include locally impactful LGBT advocacy organisations in corporate giving programs;
- b. Create space-sharing relationships providing local advocacy organisations with access to secure meeting space;
- c. Support external LGBT events such as Pride events; and
- d. Offer technical and skills support for LGBT NGOs.²¹³

155. There is also a role for the private sector in taking a public stand in support of the rights of LGBT people. Examples of good practice highlighted by Google's LGBT Employee Network in their submission to the inquiry included:

- a. Publicly showing support for the upholding of Global LGBT rights through things such as using the the Google homepage for a 'Doodle' supporting anti-

²¹¹ KPMG, *Submission of written evidence on behalf of Breathe and KPMG LLP*, 2015.

²¹² Ibid. Emphasis in original.

²¹³ See Out on the Street, *2014 Europe Summit summation pack*, 2014 and Google LGBT Network, *Submission to the APPG on Global LGBT Rights*, September 2015.

discrimination at the Sochi Winter Olympics and to show support for same-sex marriage equality in Ireland;

- b. Supporting marriage equality in the United States, joining over 200 tech companies to file a brief arguing against the Defense of Marriage Act; and,
- c. Supporting LGBT inclusion through advertising and marketing.²¹⁴

156. Participation in public benchmarking programmes, such as Stonewall's Workplace Equality Index, or the Human Rights Campaigns Corporate Equality Index, operates both as a public statement of a commitment to LGBT equality and a spur to improve expertise and practice.²¹⁵

157. While a growing body of good practice is emerging from Northern headquartered business, witnesses felt that more needed to be done to bridge the gap with Southern headquartered counterparts.²¹⁶ This is particularly true of small and medium enterprises, which are major employers in many southern markets.

158. Procurement guidelines that encourage suppliers to implement diversity policies can work to leverage business to business relationships in order to improve the treatment of LGBT people in the workplace, particularly across global supply chains. For example, KPMG's Sustainable Procurement Programme engages strategic suppliers in key sustainability issues of including supplier diversity and gives a structure through which to evaluate, monitor and improve the Diversity and Inclusion credentials of suppliers.²¹⁷ As pointed out by KPMG:

A tangible example resulting in improved outcomes for LGBT people is that in 2013 one of KPMG's major suppliers set up an LGBT network for its employees, partly in order to satisfy the diversity and inclusion requirements of our procurement policy.²¹⁸

159. It is important to recognise that the same sensitivities that limit bilateral interventions by states or civil society also need to be taken into account when considering the role that the private sector has to play in supporting the rights of LGBT people. Out on the Street frames the conundrum well:

[Companies] taking public stances for LGBT equality in countries where same-sex intimacy is criminalised could potentially backfire; the question of how to best address unjust laws that affect LGBT people remains a central challenge for many multinational corporations.²¹⁹

160. However, contributors to the inquiry felt that engagement in markets where the rights of LGBT people are curtailed was almost always seen as preferable to outright exit. While context is important:

²¹⁴ Google LGBT Network, Submission to the APPG on Global LGBT rights, September 2015.

²¹⁵ See Stonewall, *Stonewall Top 100 Employers 2016*, January 2016. <http://www.stonewall.org.uk/get-involved/workplace/workplace-equality-index> and Human Rights Campaign, *Corporate Equality Index 2016: Rating American Workplaces on Lesbian, Gay, Bisexual and Transgender Equality*, 2015. <http://www.hrc.org/campaigns/corporate-equality-index>

²¹⁶ See Oral Evidence Session 2.

²¹⁷ Ibid.

²¹⁸ Ibid.

²¹⁹ Out on the Street, *2014 Europe Summit summation pack*, 2014.

It is rare that having less presence and less dialogue is a good thing. Corporate action in human rights issues in the supply chain is a key examples. Exiting difficult markets like Bangladesh doesn't help. Staying in the market and fixing the issues is harder but possibly more effective.²²⁰

161. It is important for business interventions to be contextually relevant, taking into account the above constraints. As one anonymous contributor pointed out, public facing corporate interventions that are possible in markets like the United States and Ireland would likely be ineffective in markets such as India or China. Not only could inappropriately strident public support for the rights of LGBT people damage a company's brand or market share, it could easily act to damage wider advocacy on LGBT equality, unhelpfully marking the issue as 'Western'. Consulting with other stakeholders, including LGBT civil society actors, can help private sector actors fine tune interventions, particularly public interventions, in markets that remain challenging to the support of LGBT rights.

²²⁰ Jon Miller, *Oral Evidence Session 2*, 27 October 2015.

Chapter 6: The role of the UK government

Co-ordinated and consultative strategy

162. Given the cross-cutting nature of global LGBT rights, it is vital for the government to have a coordinated comprehensive strategy governing its approach to LGBT rights, both in terms of reacting to crisis situations and in terms of improving day-to-day engagement on the issue. A number of contributors to the inquiry highlighted the lack of coordination between different departments as an obstacle to effective, timely and strategic interventions.²²¹ A shared strategy for promoting equality for LGBT people across the Foreign and Commonwealth Office, Department for International Development, Government Equalities Office and Department for Business, Innovation and Skills would enable the government to act more effectively in support of the rights of LGBT people globally.

163. This strategy needs to be developed in consultation with a range of stakeholders, including domestic and international civil society, the diaspora, experts from academia and the private sector. A stakeholder reference group, drawn from civil society, business and other stakeholders would help to guide the development and implementation of this strategy.

164. An identifiable figure with responsibility for coordinating and delivering this agenda would increase its effectiveness, help to secure its implementation and offer clear lines of accountability. The experience of the United States Special Envoy was brought to the attention of the inquiry. While there is emerging good practice in the model of the US Special Envoy, there remains a lack of consensus within British civil society as to whether a British counterpart would be appropriate. A Minister could be given clear accountability for delivering a cross-departmental global LGBT agenda without the need to appoint an Envoy.

Foreign and Commonwealth Office

165. While public interventions need to be carefully weighed, there is still a role for strategic and judicious high-level leadership championing the rights of LGBT people. While as a general rule public condemnation of criminalising states should be avoided, stronger diplomatic actions should be triggered by deteriorating or crisis situations (for example the imminent implementation of legislation, or evidence of widespread state-sponsored violence), or where there is a clear call for the use of such instruments by national civil society particularly in response to deteriorating situations.

166. Punitive measures, such as the threat of banning travel to the UK, should remain on the table, in consultation with local civil society. Even though responsibility for enforcing travel bans is split, their strength as a diplomatic tool should not be underestimated. Negative policy instruments should be triggered by deteriorating or crisis situations (for example the imminent implementation of legislation, or evidence of widespread state-sponsored violence), or where there is a clear call for the use of such instruments by local civil society.

167. While the mainstreaming of human rights across the department is welcome, it needs to be supported by a coherent strategy at the centre. There is need for the FCO to develop a strategy that sets out clear and realisable objectives, that identifies key countries

²²¹ Including the Institute of Development Studies, the Kaleidoscope Trust, Stonewall and UKLGIG.

and regions that are responsive to change, and the interventions that are effective and contextually appropriate.

168. Good practice for support for local LGBT organisations at post, financially and politically, should be encouraged. Mechanisms that promote the exchange of good practice should be shared, potentially through a revised LGBT Toolkit or the incorporation of good practice into existing internal communications.

169. It is important that advocates and policy makers understand that LGBT rights (and indeed rights in general) are an integral part of an agenda that is focused on prosperity, economic development and supporting democratic rule. As illustrated above there is a correlation between the realisation of human rights for LGBT people and indicators of rule of law and democracy. There is emerging and increasingly compelling evidence that links respect for human rights generally (and the rights of LGBT people specifically) to improved individual, business and national economic performance. The successful pursuit of a prosperity agenda cannot be detached from strengthening and supporting respect for human rights through bilateral and multilateral relationships.

170. Where possible the Foreign and Commonwealth Office should work with specific international and regional bodies to strengthen respect for the rights of LGBT people. While its work in the UN and the UN HRC have been noted in this report and elsewhere, other multilateral bodies remain potentially under-served, most notably the Commonwealth and the OSCE. Britain's hosting of the Commonwealth Heads of Government Meeting in 2018 offers a key opportunity to support LGBT rights in this forum.

Department for International Development

171. We welcome the publication of DFID's approach to LGBT rights.²²² However, steps need to be taken to ensure that DFID's approach translates into a full body of work that benefits the lives of LGBT people.

172. Meaningful investment in internal capacity is needed to effectively implement the approach. The current level of internal resourcing of the approach was largely seen as inadequate by contributors to the inquiry, especially given its ambitious nature. This lack of internal resourcing was also cited as an obstacle to effective engagement with DFID by some civil society actors.

173. The success of the approach is also limited by the lack of specific funding mechanisms that explicitly support LGBT human rights and civil society organisations. There are a range of activities that develop organically out of the approach, that currently lack clear lines of resourcing, including interventions aimed to change discriminatory laws, policies and practices, and to meet gaps in services for LGBT people. As noted by the Kaleidoscope Trust:

Overwhelmingly, the greatest need identified by our partners is the challenge they face in resourcing their work. There is a pressing need to make

²²² Department for International Development, *DFID's approach on lesbian, gay, bisexual and transgender (LGB&T) rights*, 9 February 2016. <https://www.gov.uk/government/publications/dfids-approach-on-lesbian-gay-bisexual-and-transgender-lgbt-rights>

resources available for LGBT-specific programming that is innovative in approach and aimed at creating long term positive change.²²³

174. We welcome DFID's commitment to embed inclusive development in existing policy and programme areas. The need to mainstream the rights of LGBT people across DFID was highlighted by contributors to the inquiry as necessary to deliver the approach effectively. The inclusion sexual orientation and gender identity as part of the social impact analysis in DFID's Smart Rules is a welcome step to achieve this. However, the development and implementation of a policy that mandates consideration of the needs of LGBT populations in the business case for any major new programme or initiative would assist enormously in ensuring that the approach is successful. This is particularly important to make sure that work does not unintentionally harm LGBT populations through insensitive design. Incorporating diversity in procurement guidelines for contractors and civil society partnerships would embed a recognition of LGBT rights across DFID's portfolio. Identifying and tracking funding with an LGBT component is necessary to track the successful implementation of DFID's LGBT agenda.

175. We welcome any move by DFID to ensure that their funding of multilateral agencies reflects the aims of the approach and encourages LGBT inclusion. Incorporating sexual orientation and gender identity into the performance indicators used in future Multilateral Aid Reviews will both help DFID assess the effectiveness of these funds in improving the lives of LGBT people and act as incentive for these funds to improve their work on sexual orientation and gender identity. Within this context we also recommend that DFID assess the efficacy of contributing to the Global Equality Fund.

176. We welcome DFID's commitment to lead by example in relation to implementing the Sustainable Development Goals by sensitising delivery partners and staff to "Leave No One Behind" principles and how they should apply to LGBT and other marginalised groups.

177. There is a need for DFID to ensure that its approach is embedded at the country level. DFID should develop specific technical training and guidance for key advisory staff, such as Social Development Advisers, and those with programme management responsibility, so they are able to implement this policy effectively. A structured format for sharing information and learning around this agenda with country offices would assist in devolving understanding and responsibility for the approach from the centre.

Home Office

178. The commitment to providing refugee protection to those in need of it through a fair and effective asylum system is a practical and effective means of responding to the global persecution of LGBT people. Although the situation for LGBT asylum seekers is improving in the UK, more can be done by the Home Office.

179. While the Home Office's adoption of the Vine guidelines on claims for asylum based on sexual orientation should be welcomed, concern still remains as to how effectively they have been implemented. Evidence heard by the inquiry suggested that there remains a gap between policy and practice, particularly in the assessment of credibility of applicants. The assessment of credibility in LGBT cases needs to be undertaken in an individualised and sensitive manner, recognising the specific obstacles facing LGBT people in navigating the

²²³ The Kaleidoscope Trust, *Response to the All Party Parliamentary Group's invitation to submit written evidence on the UK's stance on international breaches of LGBT rights*, September 2015.

asylum system. Improved staff training, and potentially appointing specialist caseworkers for LGBT asylum cases would improve the effectiveness of decision making.

180. Those making claims on the basis of gender identity are not well served by the system as it stands. An urgent review of the policy guidance on gender identity claims is needed to bring Home Office practice up to date and to ensure that trans claimants are sensitively and effectively dealt with by the current system.

181. The lack of data on the number of claims made, approved and rejected on the basis of sexual orientation and gender identity is an obstacle to civil society's ability to hold the Home Office to account, to effectively engage in the formulation of policy and to advocate on behalf of LGBT asylum seekers. While we understand that the Home Office is currently investigating the feasibility of publishing data on claims made on the basis of sexual orientation and gender identity, we would urge the Home Office to go beyond the recommendations of the Vine Report to ensure that all asylum claims made on grounds of sexual orientation *and* gender identity are accurately recorded and that that data is made publicly available.

Devolved administrations

182. The inquiry received limited evidence regarding the role of the UK's devolved administrations in supporting the rights of LGBT people both domestically and globally.²²⁴ However, given the unique constitutional settlement between the UK's national governments, we recognise that there is scope for further investigation into their roles. Firstly, the current discrepancies in the political and legal settlements for LGBT people across the devolved administrations need to be addressed, particularly in respect to Northern Ireland and British Overseas Territories and Crown Dependencies. Secondly, the APPG LGBT looks forward to working with relevant stakeholders to explore the role of the Scottish Government in supporting the rights of LGBT people abroad, specifically through its International Development Fund.²²⁵

²²⁴ LoveProudly, *Response to APPG on Global LGBT Rights Inquiry UK's stance on international breaches of LGBT rights*, August 2015.

²²⁵ While the Scottish International Development fund is relatively small, it is worth noting that half of the current budget goes to funding projects in Malawi, which still formally to criminalise same-sex activity. See <http://www.gov.scot/Topics/International/int-dev>

Chapter 7: The role of the APPG and UK parliamentarians

Scrutiny, oversight and the use of parliamentary mechanisms

183. The most obvious role parliamentarians can play is to maintain a role of scrutiny and oversight of government policy and action, including through the strategic use of parliamentary mechanisms, including parliamentary questions and debates. Witnesses felt that the use of parliamentary mechanisms, has been effective in raising the profile of the human rights of LGBT people as well as influencing UK Government action on these issues.²²⁶ Parliamentarians have a key role to play in developing relationships with relevant LGBT rights campaigners and experts, ensuring international LGBT rights issues are regularly raised in Parliament and that debates are well informed and strategically positioned.

184. The strategic use of parliamentary mechanisms has proven to be helpful in response to deteriorating circumstances for LGBT communities, such as the emergence of draconian legislation. For the voices of MPs helped to raise the profile of the (then) Ugandan Anti-Homosexuality Bill and giving voice to the amendments proposed by Sexual Minorities Uganda.²²⁷ Lord Scriven's debate on the rights of LGBT citizens worldwide also provided an opportunity to question the government on the depth of its commitment to the rights of LGBT people internationally.²²⁸ Parliamentary interventions can be especially effective when developed in consultation with UK and international civil society to give a platform to grassroots communities they would otherwise lack. Consultation with grassroots communities and frontline human rights defenders also ensures that interventions act to support local and regional strategies and acts to minimise the potential for political backlash in the respective national contexts.

185. There remains a need however for strategic oversight of the use of parliamentary mechanisms, which have, in the past, occurred on a more or less ad hoc basis. The APPG LGBT aims to ensure that such interventions are part of wider national and international strategies, developed in consultation with civil society and other stakeholders.

Inter-parliamentary relationships and forums

186. Parliamentarians' bilateral relationships with international colleagues can be leveraged to support change in a number of ways: through existing inter-parliamentary networks, through bilateral parliamentary relationships, and through collaboration with similar groups of parliamentarians in other legislatures which share the remit of the APPG LGBT.

187. Existing inter-parliamentary organisations, such as the Commonwealth Parliamentary Association, the Inter-Parliamentary Union and the ACP-EU Joint Parliamentary Assembly, can offer a forum to challenge attitudes to LGBT people, to build consensus and to exchange knowledge of good practice. The APPG LGBT should work with UK members of these forums to facilitate the championing of LGBT rights.

188. A number of contributors to the inquiry highlighted the role UK parliamentarians can play in providing support for, and knowledge exchange with, colleagues in countries where

²²⁶ The Kaleidoscope Trust, *Response to the All Party Parliamentary Group's invitation to submit written evidence on the UK's stance on international breaches of LGBT rights*, September 2015.

²²⁷ Early Day Motion 1050: Ugandan Anti-Homosexuality Bill, 5 February 2014. <http://www.parliament.uk/edm/2013-14/1050>

²²⁸ HL Deb, 17 September 2015, vol 764, col 2013. <http://www.publications.parliament.uk/pa/ld201516/ldhansrd/text/150917-0002.htm#15091736000777>

parliamentary support for the rights of LGBT people is emerging.²²⁹ UK parliamentarians can exercise bilateral relationships with their international colleagues to offer assistance to those wishing to make progress in their countries, share good practice, policy expertise and identify political challenges for legislators abroad. The inquiry was given the examples of Malawi, Kenya and Belize as potential legislatures where the support of UK parliamentarians and the APPG LGBT could be usefully mobilised to assist in the development of networks of supportive parliamentarians.

189. Collaboration with existing parliamentary groupings focusing on the rights of LGBT people offers another opportunity to learn from good practice and to mobilise cross-parliamentary action, particularly in response to deteriorating or crisis situations. The Congressional LGBT Equality Caucus²³⁰ in the United States and the Intergroup on LGBT Rights²³¹ in the European Parliament offer models of practice and potential partners for coordinated cross-parliamentary action.

190. As with many other aspects of working on LGBT rights globally, it is vital to exercise the influence offered by inter-parliamentary relationships in reference to the priorities of local and national LGBT organisations and communities. Leveraging direct inter-parliamentary relationships to advocate for the rights of LGBT people should always synchronise with the specific strategies of civil society on the ground. Inter-parliamentary relationships can, in some circumstances, give UK parliamentarians the opportunity to advocate on behalf of LGBT civil society, who may lack access to their own parliament. However, this must be done in concert with LGBT civil society. Where possible, these bilateral relationships with international colleagues can be used to foster relationships between legislators and members of their own LGBT civil society.

Developing relationships with other stakeholders

191. In order to operate effectively, UK parliamentarians must ensure a close working relationship with LGBT civil society, both in the UK and globally. National and local LGBT human rights organisations are often the best placed to understand their specific country and regional contexts, and offer an invaluable source of advice and intelligence as to what sort of interventions are effective. As pointed out by the Kaleidoscope Trust:

Wherever possible it is important for parliamentarians to meet and work with grassroots LGBT activists in the countries where they are persecuted in order to construct effective, contextually responsive interventions informed by their expertise, their concerns as well as the opportunities they have identified.²³²

192. Diaspora activists and groups also have an important role to play, not just in advising on their experiences of the asylum system, but on the wider issues facing LGBT communities in the UK and abroad. They often bring first hand experience of persecutory environments and offer a unique and potentially under-utilised influence within, and through, wider diaspora communities. Efforts should be made to include these communities in consultations with the APPG LGBT.

²²⁹ See interview Caleb Orozco.

²³⁰ See <https://lgbt-polis.house.gov>

²³¹ See <http://www.lgbt-ep.eu>

²³² The Kaleidoscope Trust, *Response to the All Party Parliamentary Group's invitation to submit written evidence on the UK's stance on international breaches of LGBT rights*, September 2015.

193. UK parliamentarians have a role in connecting LGBT networks and organisations to the apparatus of UK policy making, particularly in instances where grassroots and international actors lack the capacity or expertise to effectively influence British policy. Where necessary and appropriate they can transmit messages from local LGBT communities to the media, governments and diplomats giving a voice to vulnerable communities who wish to raise their profile.

194. There is also a role for the APPG LGBT to work closely with stakeholders within government. We look forward to identifying potential partnerships with government departments and agencies.

195. Finally, there is role for the APPG LGBT to work with UK and international civil society and other stakeholders in order to investigate existing and emerging challenges facing LGBT people globally and to recommend appropriate UK policy responses. Potential areas for further examination identified in this report include:

- a. how to better support data collection and research;
- b. the role of faith communities in confronting discrimination based on sexual orientation and gender identity;
- c. the challenges facing intersex people;
- d. the role of the trade union movement; and,
- e. the role of the UK's devolved administrations in supporting the rights of LGBT people globally.

196. The APPG LGBT will aim to act in a convening role, bringing together experts from the private sector, civil society, government and academia to examine key emerging issues facing LGBT communities globally and to highlight their interactions with British policy mechanisms and apparatus.

Acknowledgements

The All Party Parliamentary Group on Global LGBT Rights would like to acknowledge submissions from:

African Rainbow Families
 Aderonke Apata
 Andrew Austin
 Bemz Benedito
 Mark Bromley
 Logan Casey
 S Chelvan
 Nayem Chowdhury
 Commonwealth HIV/AIDS Action Group
 Commonwealth Secretariat
 Commonwealth Equality Network
 Jonathan Cooper
 Craig Cox
 Dr Felicity Daly
 Paul Dillane
 Doctors of the World
 Freshfields Bruckhaus Deringer
 Google
 Sarah Holland
 Claire House
 The Human Dignity Trust

The Institute of Development Studies
 The International HIV/AIDS Alliance
 The Kaleidoscope Trust
 KPMG
 Helen Lawless
 Peter Laverack
 LoveProudly
 Jon Miller
 Dr Elizabeth Mills
 Open for Business
 Caleb Orozco
 Out 4 Business
 David Pearson
 Professor Andrew Reynolds
 The Royal Commonwealth Society
 Deborah Sherry
 Stonewall
 Paul Twocock
 The UK Lesbian and Gay Immigration
 Group
 Aritha Wickramasinghe