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A Report of the National Transgender Discrimination Survey in Kenya (NTDS)-A Baseline Study of Transgender Persons in Kenya: Life experiences and Access to Health Services

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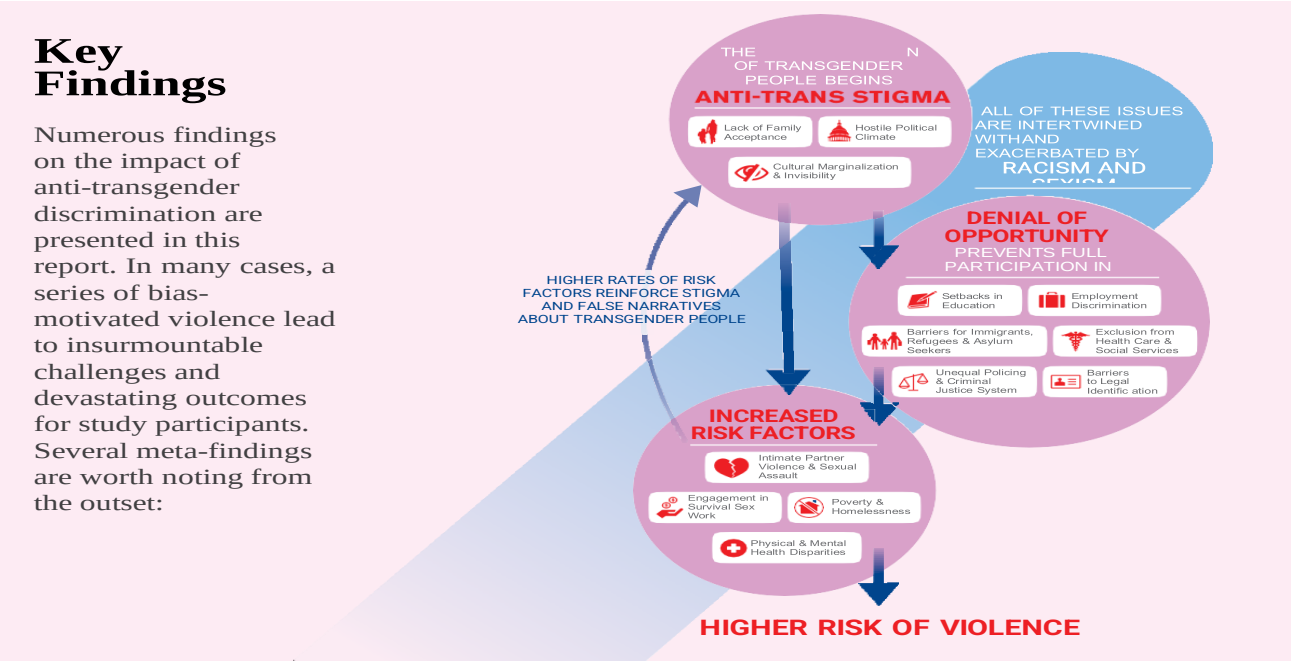
Executive Summary



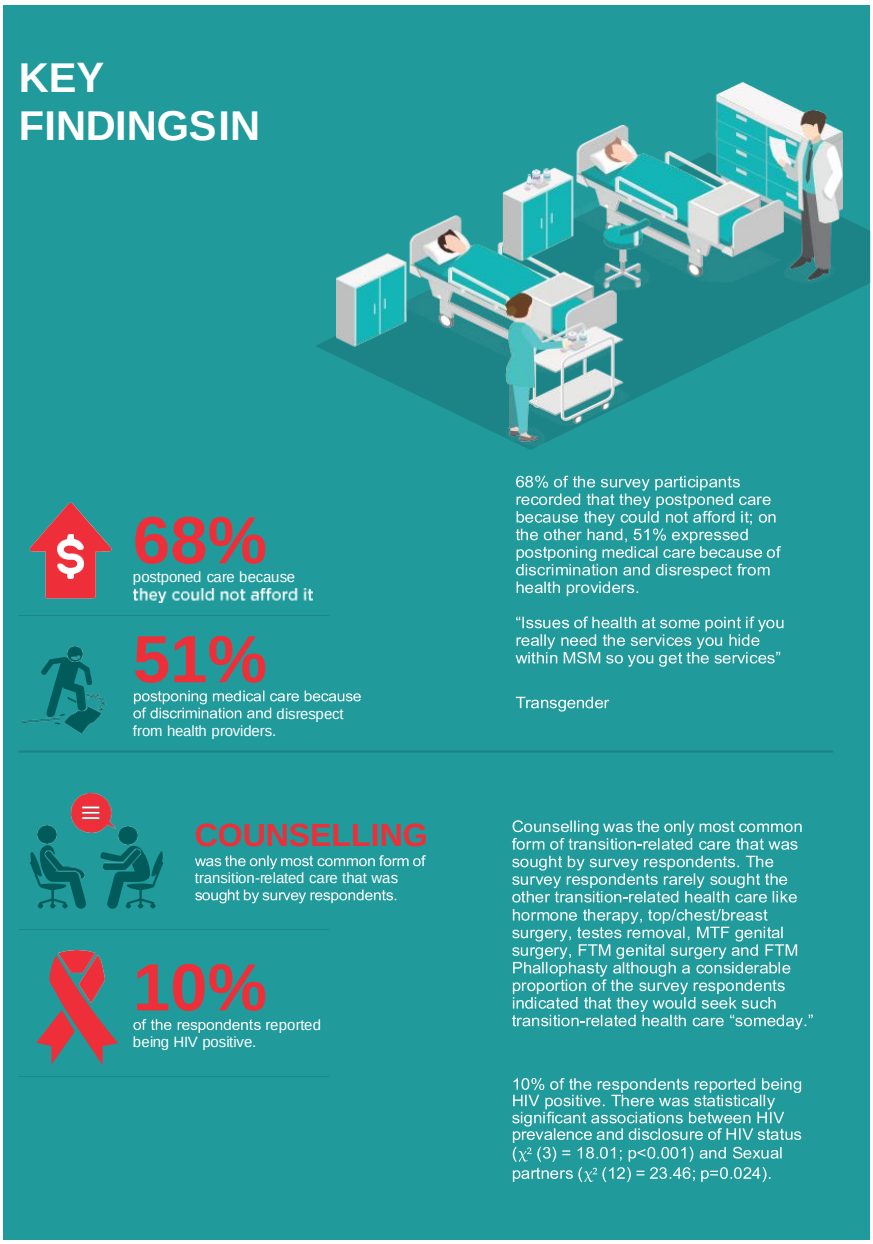
The study contained the underpinnings on protection issues against violence and discrimination. It was based on gender identity targeted at transgender persons in Kenya in the understanding that an inclusive society enables people to enjoy protection from violence and discrimination. The leaders in the social, cultural, political and other fields have an important role in communicating, motivating and fostering inclusiveness. This report was guided by two principles. The first principle was strategic dialogue that includes a wide range of stakeholders from civil society organisations, national human rights and academic institutions, community-based organisations, community gatekeepers and county governments through a public consultation and participation process. The second principle incorporated deconstructing the texture of the lived experiences of transgender persons made visible through intersectional lenses in ways that are compounded by factors such as ethnicity/race, indigenous or minority status, colour, socio-economic status and/or caste, language, religion or belief, political opinion, national origin, marital and/or maternal status, age, urban/rural location, health status, disability and property ownership. This report is aligned with global and regional initiatives undertaken by human rights and development organizations in the field of social inclusion

1 (A/HRC/35/36, para. 60)

2 (A/74/181, para. 4)

3https://assets2.hrc.org/files/assets/resources/2018AntiTransViolenceReportSHORTENED.pdf?_ ga=2.234053850.552925882.1601360740-385136321.1573415587

Healthcare



Primary healthcare systems (PHC) remain an important entry point for many transgender people in Kenya seeking healthcare services with an overwhelming majority (67%) seeking healthcare services in public health and private facilities, and key population clinics and alternative medical provider service delivery points being the least sought. A majority of transgender Kenyans postponed care due to finances, with Kisumu, Mombasa and Nairobi bearing a disproportionate burden. Besides, transgender Kenyans postponed care) due to discrimination and disrespect from providers, with over a half (51%) of transgender people reporting disrespect from providers. HIV testing and transition-related care counselling was the commonest service that transgender people in Kenya access with many unable to access transition-related care. The study also identified key individual, interpersonal, and structural factors associated with an inability to access transition-related care. This included: transgender people and theirfamilies regularly navigate. a myriad of challenges through society including bullying, discrimination, lack of adequate healthcare, disapproval from family and community, and an overall. Lack of societal understanding; the experience of gender transition has a profound impact on adoption and foster parenting with a majority of transgender Kenyans adopting children of their partners (7%) or children related to them (5%) but few (1%) would adopt children previously unknown to them; (3) 82% of transgenderKenyans had not received any gender-related mental health diagnosis. A majority (58%) of the transgender people suffered from clinical depression, 17% reported suffering from anxiety, 10% reported alcohol use, and 5%reported suicidality.

Over a quarter, (26%) were currently using drugs, 24% had used drugs but were not currently using while 50% were not using drugs. The affordability and insurance coverage also limited access to healthcare for transgenderpeople with an overwhelming majority (72%) lacking health insurance and 28% accessing government-subsidized plans (NHIF) and private insurance with Nakuru (95%) and Busia (94%) being disproportionately affected due, in part, to the higher prevalence of unemployment and poverty faced by transgender people relative to the general population, and a likely product of employment discrimination

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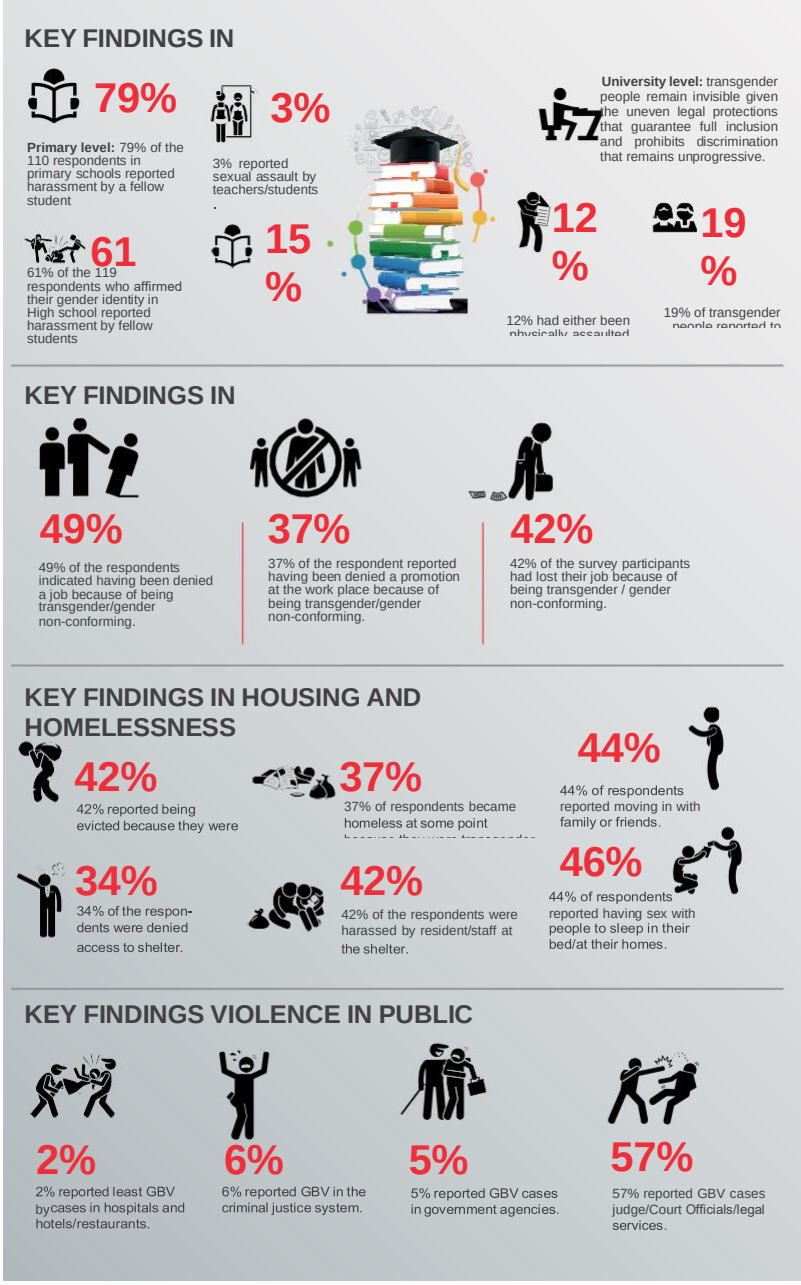
The only 10% of transgender people reported they were HIV positive and 17% indicated they were on treatment and care spotlighting disclosure as the most complex psychosocial challenge facing transgender people living with HIV and AIDS. 41% of transgender people were actively engaged in sex work with an average of 1-14 sexual partners in a month with a significant association between HIV prevalence and number of sexual partners. Predominant hotspots for a majority of those actively engaged in sex work included: home-based 14%, bar without lodging/ chang'aa den 8%, guest house 6%, streets/ highways 6%, strip club/ massage pallor 5%, park/beach/toilets 5%, sex den/brothel 4%, uninhabited building/ bush 2%.

Stigma, discriminationand violence



Transgender people are currently unable to access equal educational opportunities because SOGIESC violence is rampant in various levels of the education system with 79% of students in the primary level of education, 61% of students in high schools and 65% of students in university reporting harassment by fellow students. Similarly, 9% in primary, 14% in high school and 19% in university experienced harassment from teachers/lecturers. Over a third (37%) of those who had experienced SOGIESC violence in school had to be expelled. 74% of transgender students affirmed their gender identity in pursuit of their educational goals with a significant association between low current household incomes with gender affirmation at schools.

Systematic discrimination of transgender people in the workplace was high with nearly a half (49%) experiencing job denial with Nairobi County being a major casualty, 37% were denied promotion and 42% lost their jobs with Nairobi

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and Kisumu counties experiencing the highest proportion (54%). There was a significant association between sex work and being denied a job or losing a job. There was widespread mistreatment at the work place with 46% reporting harassment on grounds of gender identity status, 31% reported physical violence and 26% reported sexual assaults. A half (50%) presented in the wrong gender, 65% experienced misgendering and 55% experienced information privacy breach and 41% experienced sex work discrimination in the workplace. Nearly half (47%) had experienced underemployment.

Housing insecurity was a major crisis for transgender people. 44% of transgender people had experienced direct housing discrimination either by being denied a house or being evicted (42%) on grounds of gender identity status. 61% of transgender people were homeless with an overwhelming 51% of homeless transgender people more likely to be incarcerated and twice more likely (60%) to have engaged in sex work for income, and (63%) attempted suicide. Only a third (33%) of transgender homeless people had access to shelters with an overwhelming majority always presenting in the wrong gender, experienced eviction or being thrown out from shelters, harassed by shelter administrators, denied access to a shelter, and had been physically and sexually assaulted in shelter homes.

In public settings and accommodation, transgender people experience discrimination despite the existence of civil rights laws that prohibit discrimination. Additionally, the public gender moral panic directly or indirectly positions transgender people as a sexual threat posed by the presence of sex-segregated spaces always considered unnatural or perverse and dealing with anti-transgender bias and gender stereotypes that position women as vulnerable and men as sexually threatening. Transgender people were denied equal treatment or service in hospitals (62%), legal aid services (57%), government agencies (55%), restaurants (52%) and by the police (51%). There was also widespread verbal abuse in the public sector with the transport sector presenting the highest rate of verbal harassment or disrespect (63%). Rates of reported assaults included 26% GBV rape cases, 20% GBV cases in domestic partnerships, 11% GBV cases in mental health clinics, 6% GBV cases in the criminal justice system, and 5% GBV cases by government agencies.

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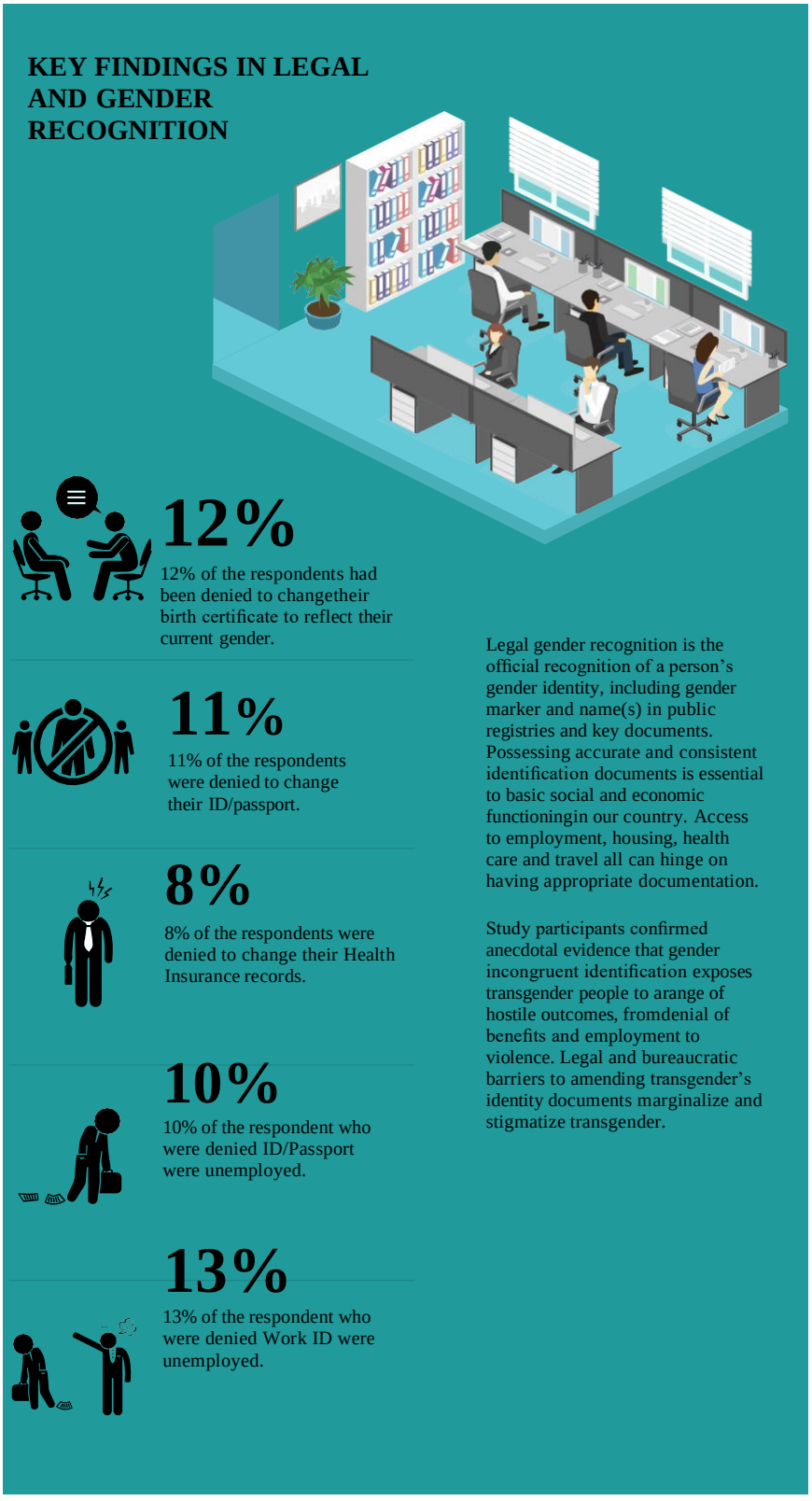
Legal and gender recognition - barriers to receiving updated ID documents



Gender incongruent identification exposes transgender people to a range of hostile outcomes, from the denial of benefits and employment to violence. Over a half (63%) of transgender people had none of their identification documents and records reflecting their current gender identity and that 26% of those who presented their Identity Documentation (ID) (when it was required in the ordinary course of life) which did not match their gender identity reported being harassed, 9% reported being attacked or assaulted and 10% reported being asked to leave. 10% and 13% of transgender people who were denied ID/passport and work ID respectively were unemployed. Similarly, there was a statistically significant association between those who were denied a chance to change their ID/passport and the unemployed and work ID and the unemployed.

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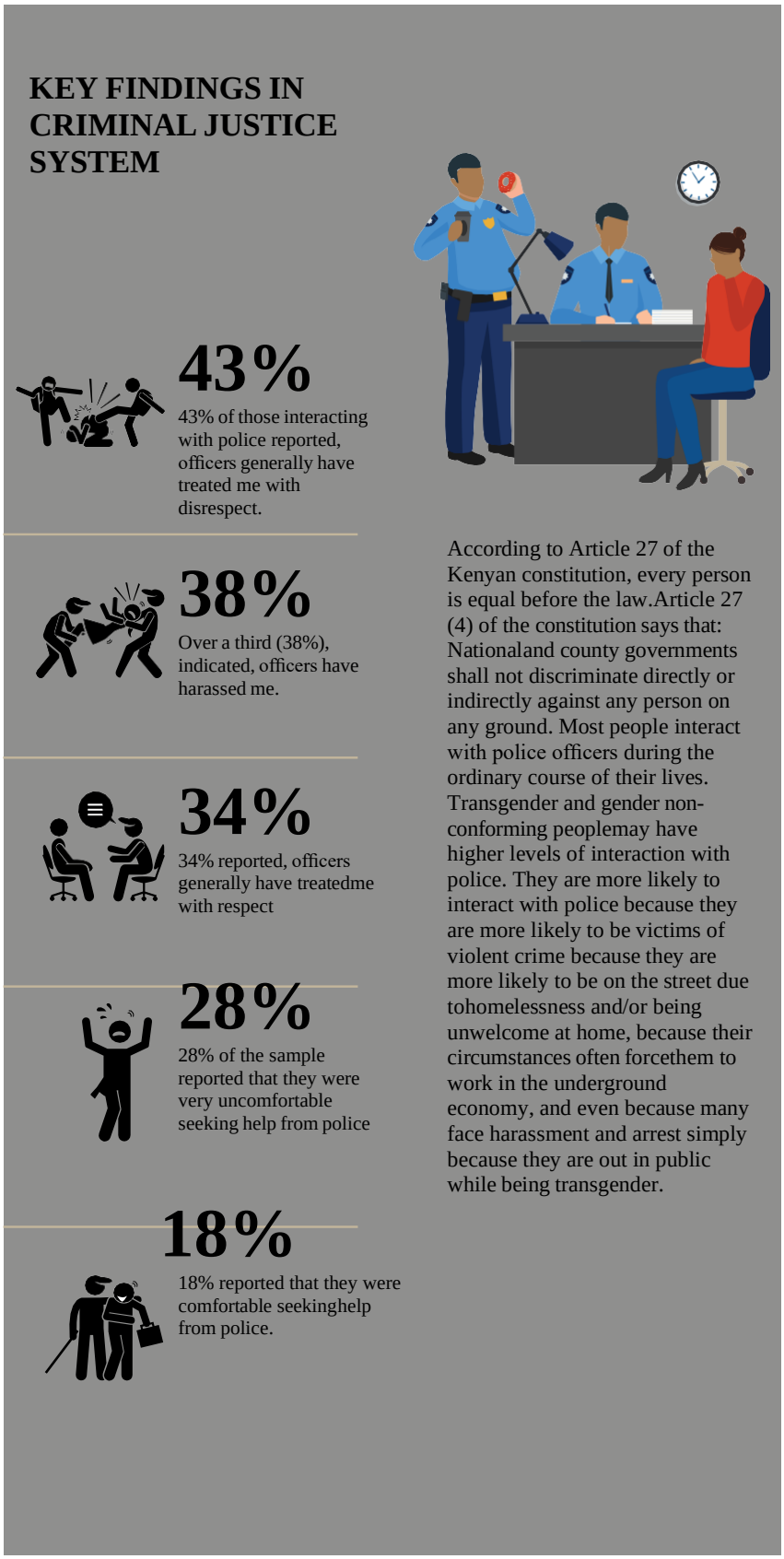
Criminal justice system - abuse by police and in prison



According to Article 27 of the Kenyan constitution, every person is equal before the law.Article 27 (4) of the constitution says that: Nationaland county governments shall not discriminate directly or indirectly against any person on any ground. Most people interact with police officers during the ordinary course of their lives. Transgender and gender non-conforming peoplemay have higher levels of interaction with police. They are more likely to interact with police because they are more likely to be victims of violent crime because they are more likely to be on the street due tohomelessness and/or being unwelcome at home, because their circumstances often forcethem to work in the underground economy, and even because many face harassment and arrest simply because they are out in public while being transgender.

Law enforcement agencies in Kenya have gained a reputation in the transgender community for arbitrary arrests, physical and sexual assaults and harassment. Nearly a half (43%) of those interacting with police reported being treated disrespectfully. Over a third, (38%), indicated being harassed. And another 23% reported physical assault and 12% indicated being sexually assaulted by the police. The report showed that 55% indicated being uncomfortable seeking help from the police due to fear of criminalization laws that target transgender people. Nearly a third (31%) of transgender people had been arrested and incarcerated with a vast majority (83%) jailed under six months, 8% jailed up to one year, 6% jailed up to three years and 2% jailed between five to ten years. Transgender people serving jail term also reported harassment (61%) by other inmates, 23% reported physical assault or attack, 11% reported sexual assault, and 5% reported being denied hormonal treatment impacting negatively on their physical, mental, and emotional well-being.

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Conclusion and policy recommendation

The theme of this report deconstructs how discriminatory laws and sociocultural norms continue to marginalize and exclude intersex and gender-diverse persons. They are excluded from education, healthcare, housing, employment and occupation and other sectors giving rise to a host of other problems in a context where access to economic, social and cultural rights is hampered resulting in poverty and exclusion. They have a lower social-economic status due to the limiting access to assets that are essential to enjoy the full range of human rights. A glance at these issues quickly affirms the intersectionality of all human rights grounded in the firm commitment of leaving no one behind under the 2030 agenda for Sustainable Development Goals. This report offers a window opportunity throughwhich to gauge the character and scale of anti- discrimination data and the linkage with root causes, dialogue, consultation and cooperation with state and non-state actors, including implementation of international instruments, with identification of good practices and gaps.

National and county governments have a fundamental responsibility to respect, protectand promote the human rights of transgender people in Kenya by taking action to ensure timely access to appropriate primary health care in public-funded health programs. There is need of development of guidelines on achieving universal access to acceptable, competent, appropriate, and affordable care. There is the need of promoting centers of clinical and research excellence in transgender health care countrywide and incorporate transgender sensitive care to develop into medical, nursing and paramedical curricula.

Moreover, there is the need of taking action to ensure laws, policies, programmes and procedures do not discriminate against transgender people through an effective and accessible legal and services framework. In addition, there is the need of taking action to allow individuals change their legal name and gender, including the gender markers on official documents, put in place quick, accessible and transparent procedures aimed at providing transgender people with official national documents. Besides, there is the need to abolish mandatory medical examinations for obtaining legal recognition and to ensure information concerning changes of legal name and gender is kept confidential and such information should not be accessible to third parties without explicit consent. There is the need of taking action to ensure equal protection under the law, adopting positive legislative, judicial, administrative, educative, and other appropriate measures to protect these rights. There is also the need to ensure freedom from cruel, inhumane and degrading treatment of transgender people.

1.0 INTRODUCTION

Research on the health of transgender has been limited with most of the work focusing on transition-related care and HIV/AIDS. Kenya's HIV response framework identifies key populations that the country needs to target in delivery of HIV/AIDS and related health interventions including sex workers, injecting drug users and recently included transgender as a sub-population of key populations in Kenya. Existing studies on size estimates for key populations also only provide data for men who have sex with men, female sex workers, injecting drug users and most recently intersex populations. More often, these data are further not disaggregated to cover population specific characteristics such as gender identities given the extensive composition of the LGBTI population. The Kenya Government through its subsidiary the National AIDS/STI Control Programme (NASCOP) with funding support from PEPFAR – CDC – University of San Francisco (UCSF) – UoM conducted a population size estimates for Transgender populations. A total of 1,218 hotspots were identified where transgender visit. Many transgenders also face stigma, discrimination, social rejection, and exclusion because of their gender identity or expression, that prevent them from fully participating in society, including accessing health care services (CDC, 2006; CDC, 2012). These barriers make it more likely for transgender to avoid getting tested and less likely to remain in HIV related medical care (Baral SD et al, 2013).

Negative provider attitudes, as well as refusal of care, can be a source of trauma for transgender, and can build distrust and avoidance of the health care system. In 2011, Obedin et al observed that comparatively few professionals working in health, social, and community services, as well as professionals in law and education, have had opportunities to learn how to provide accessible, competent and respectful care for transgender (Obedin-Maliver et al, 2011). The Kenyan constitution in chapter 43 guarantees access to the highest standards of health for all. Kenya has also made milestones in the development of standard of care and health policy frameworks such as 1) Kenya AIDS Strategic Framework, 2) Kenya's Fast Track Plan to end HIV and AIDS among adolescents and young people 3) Kenya HIV Prevention Roadmap among others, which provide guidance to the provision and scale up of HIV services to those reporting same sex intercourse including transgender community. The National Adolescent Sexual and Reproductive Health Policy (ASRH, 2015) documents key principles for the respect for human rights and fundamental freedoms including the right to life, human dignity, equality and freedom from discrimination on the basis of gender, sex, age, disability, health status and geography.

However, there exist a disconnect between policy formulation and its translation to practice especially when its grounded in existing social, cultural and religious resistances of different people tasked with providing health services to 'criminalized' populations remains difficult for the country to design, implement and scale up policy and programming interventions that are appropriate and responsive to the needs of the population. (National Center for Transgender Equality, 2009; World Health Organization/Western Pacific Region, 2016; Yamey, 2016; Proctor, Haffer, Ewald, Hodge, & James, 2016; Eyssel, Koehler, Dekker, Sehner, & Nieder, 2017; Onyango. et al 2015). Historically, much of the research focusing on the relationship between the law and lesbian, gay, bisexual and Trans (LGBT) people has tended to treat LGBT people as a homogenous group, without affording particular recognition and consideration to the different lived experiences of members within that group.

As noted in the Human Dignity Trust's breaking the Silence Report[1], which focused on the criminalization of cisgender lesbian and bisexual women, the existing legal analyses and case law have predominantly focused on the impact of discriminatory laws on cisgender gay and bisexual men. Trans and gender diverse people are often particularly vulnerable to harassment, discrimination and violence from both state and non-state actors, and are uniquely impacted by multiple types of criminalizing laws. Notably, research maps legal gender recognition, anti-discrimination, hate crime and asylum legislation, criminalization, prosecution and state-sponsored discrimination on a global basis.[2] Additionally, the International Lesbian, Gay, Bisexual, Trans and Intersex Association's (ILGA) Gender Identity and Gender Expression programme produces an annual Trans Legal Mapping Report – a compilation of laws and policies affecting Trans and gender diverse people's ability to change their sex/gender markers and names on official documents.[3]

In Kenya, there are no laws that criminalize the existence of transgender and gender diverse people. However, Kenya has laws that explicitly criminalize the expression or activities of Trans and gender diverse people, or laws that are otherwise silent on Trans people but are misused by state officials to target them. The criminalization of same-sex intimacy can have a pernicious impact on transgender and gender diverse people by fostering a broader climate of fear and stigmatization that extends beyond cisgender lesbian, gay and bisexual people. Additionally, in legal systems that do not afford recognition to the gender identity of trans and gender diverse people, sexual activity between a Trans woman and a cisgender man or a Trans men and cisgender woman is regarded as same-sex intimacy and as such, is captured by criminalization. This is demonstrative of the ways in which state actors and wider society conflate sex and gender and struggle with identities and expressions which are deemed to undermine or threaten deeply-rooted gender binaries. Often, the visibility of transgender and gender diverse people leave them especially vulnerable to being targeted by these laws. Data and evidence of these arrests and abuse is sparse and difficult to obtain.

2.0 LITERATURE REVIEW

Gender generally classifies individuals as masculine or feminine based on their biological, psychosocial, and cultural factors that society delineates (Leidolf et al., 2008). Gender minorities are defined according to their gender identity and expression typically. Gender minorities include transgender. Transgender has been referred to as an inclusive umbrella term for people whose gender desires, identities and behaviors are not in line with traditional expressions of masculine and feminine and they might not conform to what is usually linked with assigned sex (Graham et al., 2011; Fenway Health, 2010; Sausa et al., 2007). Spritzer, 2009 describes transgender as a term applied to anyone who bends the common societal constructions of gender, including cross-dressers, transsexuals, genderqueer youth, drag queens, and a host of other terms that people use to self-identify their gender (Stotzer, 2009). Individuals feel as the opposite gender and some of them go through medical and surgical

[1] Human Dignity Trust, Breaking the Silence: Criminalization of Lesbians and Bisexual Women and its Impacts, 2016. Available at: http://www.humandignitytrust.org/uploaded/Library/Other_Material/Breaking_the_Silence-Criminalisation_of_LB_Women_and_its_Impacts-FINAL.pdf

[2] TGEU, Trans Respect versus Transphobia: Legal and Social Mapping. Available at: https://transrespect.org/en/research/legal-social-mapping/ and
TGEU, Trans Respect versus Transphobia: Trans Murder Monitoring. Available at: https://transrespect.org/en/research/trans-murder-monitoring/

[3] International Lesbian, Gay, Bisexual, Trans and Intersex Association: Chiam, Z., Duffy, S. and González Gil, M., Trans Legal Mapping Report 2017: Recognition before the law (Geneva: ILGA, November 2017). Available at: https://ilga.org/trans-legal-mapping-report.

treatments to change their sexual characteristics (Graham et al. 2011; Leidolf et al., 2008).

Transgender may affirm a gender identitiy different with their natal sex and that cross-dressing may not necessarily indicate cross-gender identification. Cross gendering is common among transgender and may be pursued for leisure or sexual variety (Meyerowitz & Meyerowitz, 2009). For example, a person born male who enjoys wearing women's clothing after a bad day at work may identify as a man, yet enjoy the relaxation that cross-dressing brings him. Conclusions from studies done in this area have highlighted that the phenomenon of transgenderism is complex and warrants more in-depth research for a better understanding. The WHO documents that transgender share many of the same health needs as the general population, but may have other specialist health-care needs, such as gender-affirming hormone therapy and surgery. Interest of gender and sexual minorities' health status has mostly been on sexual transmitted diseases in the past two decades but there is now a growing awareness of other negative health disparities (Muller & Hughes 2016.)

Data on health-related data for transgender persons worldwide is limited, and this picture remains severe and consistent with majority of the studies done focusing on HIV/AIDS. Available data is also largely on transgender women who have been shown to be almost 50 times more likely to be HIV positive than other adults of reproductive age (Baral et al., 2013) and transgender sex workers who are four times more likely to be living with HIV than female sex workers (Operario et al., 2008). According to Lombardi (2010), transgender often have two different sets of healthcare providers: one involved with gender transition and one involved with regular healthcare visits. Research demonstrates that many transgenders seek to align their outward physical sex with their internal gender identity through hormonal and surgical interventions. The goal of this treatment is to reduce, if not eliminate, the hormonally induced secondary sex characteristics or genitalia of the natal sex while inducing those of the core gender (Gooren, Giltay, & Bunck, 2008; Rotondi et al., 2013).

In many situations, traditional healthcare plans (public and private) do not cover the costs related to changing one's gender, and thus patients have to find other ways to fund their transition from one gender to another (Lombardi, 2010). Available data reveals that a high proportion of transgender have taken hormones at some point in their lives without medical supervision (Sanchez, Sanchez, & Danoff, 2009) because their insurance plans would not cover the costs, or heightened levels of fear and mistrust experienced by those seeking care from healthcare providers (Rotondi et al., 2013). In many societies, discrimination against transgender may stem from multiple forms of stigma relating to gender identity, gender expression and perceived sexual orientation. Globally, laws that penalize same-sex intercourse contribute to a cycle of stigma, homonegativity and discrimination. Transgender who perceives their behaviors to be associated with shame, judgment, fear or even legal consequences are less likely to disclose sexual and related health behaviors to health care providers, less likely to receive prevention and treatment care, and more likely to contribute to the HIV epidemic (Sullivan et al.,2012; Mayer et al., 2012).

In 2013, a group of Kenyan civil society organizations' presented a report to the Committee Against Torture stating that people who are LGBT in Kenya face constant harassment, violence and death threats by police officials, who also blackmail them with threats of arrest if they refuse to pay bribes (Kenya LGBTI Resources, 2013) These legal and social attitudes lead to high levels of stigma and discrimination towards members of the LGBT community, deterring many of these from seeking the HIV services they need. There is a growing commitment in public health to understand and improve the health and well-being of transgender and other gender minorities, who comprise an estimated 0.3–0.5% (25 million) of the global population

(Winter et al., 2016). The adoption of *the 2030 agenda for sustainable development* and its pledge to leave no one behind has given renewed impetus to this movement (United Nations, 2015). This study fulfils this desire by seeking to generate evidence on the life experiences and access to healthcare among transgender in Kenya in order to inform related policy and practice.

3.0 METHODOLOGY

The study utilized a cross-sectional design employing both qualitative and quantitative data collection methods. Given that the population of transgender and gender-nonconforming (TGNC) people in the targeted areas were not known but presumed to be more than 10,000, the Mugenda & Mugenda sampling formula was used to determine the sample size that was 384 this can be rounded up to 400. The study was conducted in 10 Counties in Kenya (Nairobi, Kisumu, Mombasa, Kilifi, Nakuru, Busia, Kakamega, Bungoma, Migori and Kisii). These Counties were purposively selected to include both urban and rural target populations across Kenya. These counties were also sampled to provide geographic, epidemiologic, cultural, HIV programming variations and presence of key population organizations that support access to health services for the target population who were mostly mobile and hard to reach. Participants included transgender population, health providers, programmers and managers from civil society organizations working with key populations, police, education experts, policy makers at national and county government levels and religious leaders across the 9 Counties. Qualitative data was transcribed verbatim, typed in word editors, imported into NVIVO 10 analysis software and subjected to qualitative data analysis techniques. The framework analytical approaches were used to identify and code for key emerging themes. Coded data were read and used to develop comparative matrices to facilitate comparisons across different data sources. For quantitative data, STATA® version 13 was used.

4.0 FINDINGS

WHO affirms that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, and political belief, economic or social condition. Despite Kenya being a signatory to International human rights treaty mechanisms, transgender still bear the disproportionate burden of stigma, discrimination and violence in their attempt to access social services including health and wellbeing. Transgender are increasingly a visible segment of the Kenyan society. Globally, recent research indicates that between 0.5% and 1% of the population is Transgender, and 0.2% of the population may transition at some point in their lives (Conron, Scott, Stowell & Landers, 2012; GIRES, 2011). Furthermore, the number of Transgender coming forward for transition-related care is growing rapidly—numbers are doubling approximately every 5.5 to 6.5 years (GIRES, 2011; Spack et. al, 2012). Despite increasing numbers and visibility of Transgender, significant social prejudice and systemic barriers still exist.

Professionals who provide health and social services are not immune to being socialized into common negative beliefs and attitudes regarding Transgender. According to the Kenya National Commission on Human Rights (KNCHR), the transgender community in Kenya often faces discrimination and stigma when seeking medical health care services in public hospitals bringing to life the extent of barriers transgender face to accessing respectful, competent care: refusal of care by healthcare providers, harassment and violence in medical settings, breach of privacy, consent and confidentiality status of patients consequently exposing their gender identity to other colleagues, and lack of provider knowledge hamper transgender competent care.These negative provider attitudes can be a source of trauma for Transgender, and can build distrust and avoidance of the health care system. At present, comparatively few professionals working in health, social, and community services, as well as professionals in

law and education, have had opportunities to learn how to provide accessible, competent and respectful care for transgender (Obedin-Maliver et al, 2011).

Study respondents recorded endless mistreatment and harassment whenever they attended health care settings. Perpetrators of endless mistreatment and harassment were overwhelmingly health care workers consequently resulting to postponement in seeking necessary and preventive medical care due to fear of stigma, discrimination and violence at the health facilities. These and many more compounding vulnerabilities like unaffordable health care services and of relevant skill-set amongst the health care providers to offer prioritized medical care to transgender curtailed them from seeking and receiving quality health care. 68% of the survey participants recorded that they postponed care because they could not afford it; on the other hand, 51% expressed postponing medical care because of discrimination and disrespect from health providers. Counseling was the only most common form of transition-related care that was sought by survey respondents. The survey respondents rarely sought the other transition related health care like hormone therapy, top/chest/breast surgery, testes removal, MTF genital surgery, FTM genital surgery and FTM Phallophasty although a considerable proportion of the survey respondents indicated that they would seek such transition related health care someday.

10% of the respondents reported being HIV positive. There were statistically significant associations between HIV prevalence and disclosure of HIV status ($\chi^2_{(3)} = 18.01$; $p<0.001$) and Sexual partners ($\chi^2_{(12)} = 23.46$; $p=0.024$). When the respondents were asked *What kind of place do you go to most often when you are sick or need advice about your health?,* majority (41%) of the respondents sought health care in public health hospital/clinic, 29% of the respondents sought health care in private hospitals/clinics, 26% of the respondents sought health care in Key population hospital/Clinic and 3% sought health care in alternative medicine provider. This evidence suggests that primary healthcare systems become an important entry point for many transgenders in Kenya seeking healthcare services and that engaging primary care provider is an important part of any strategy to improve the health care of transgender. Primary healthcare systems have the capacity to provide gender specialized services such as diagnosis, endocrine management and liaison with surgical services; and a range of primary care issues such as mental health, cardiovascular disease, contraceptives, reproductive health, and cancer can be integrated and explored for transgender.[4]

Access to services for transgender in Kenya

Testing was the commonest (90%) service the Transgender in Kenya access. This was followed by the use of condoms (73%) and screening at (47%). There is dire need to improve access to primary healthcare (PHC) for transgender in Kenya that remains limited and fragmented. Improving access means identifying and clarifying which elements of health systems, organizations or services (supply-side dimensions of access) and abilities of patients or populations (demand-side dimensions of access) need to be strengthened to achieve transformative change. The summary of access to services for transgender in Kenya is depicted in Table 1

[4] https://www.ncbi.nlm.nih.gov/pubmed/28578758

Table 1: Access to services for Transgender in Kenya

Services Transgender access	Percentage
Testing	90%
Condom	73%
Screening, treatment and Care for HIV/STI	47%
Prep	38%
Pep	26%
Violence	25%
Cancer Screening	18%
Harm Reduction services	15%
Dental	13%
Family Planning	13%
SRH	7%
Co-infections and Co-morbidities	6%
Pre & Post -Natal Care	4%
Soft Tissues	4%
Safe Abortion	3%
Botox	1%

Families of transgender youth often seek therapy for assistance in understanding, accepting, and supporting their children. A gender-affirmative approach to family therapy outlines strategies for addressing common challenges faced by the families of transgender. Gender affirming family therapy begins by: (1) assuming that transgender and gender-nonconforming (TGNC) identities are natural variations of humanity that should be normalized and affirmed; (2) increase family members' (parents, siblings, and other family members) attunement to the TGNC child's gender expression to better support the youth; (3) primary health care systems especially clinicians provide safety for the TGNC youth by working with parents and other family members to better support their child and by creating a gender-affirming pathways in therapy. When the family is ready, options for gender expression/transition are explored and supported in therapy; and (5) as needed, the clinician advocates for the TGNC youth in school and other settings and supports families through the readiness process for social and medical gender transition.[5]

Transgender issues are under-explored and marginalized within mainstream social work and social care professional practice where transgender's rights to full citizenship is yet to be realized (Kuhar, Monro & Takacs, 2018)[6]. The experience of gender transition has a profound impact on the individuals who have diverse gender identities and their family members. Knowledge and skills to support the individual and their family should be embedded within social work and social care policy, education and practice, but this is not mainstream. Exploring the parenting and caring experiences of people identifying on the transgender spectrum enables a richer understanding of the construction and experiences of the category of gender within caring practices, and is essential to person centered support (Hines, 2017).[7] Participants in survey who had tried adopting children had only adopted children of their partner (7%) or children related to them (5%) but few (1%) would adopt children previously unknown to them

[5]https://www.researchgate.net/publication/314143670_Working_Toward_Family_Attunement_Family_Therapy_with_Transgender_and_Gender-Nonconforming_Children_and_Adolescents

[6] Kuhar, R., Monro, S., & Takacs, J. (2018). Transgender citizenship in postsocialist societies. Critical Social Policy, 38, 99– 120. https://doi.org/10.1177/0261018317732463
Crossref Web of Science®Google Scholar

[7] Hines, S. (2017). Transgendering care: Practices of care within transgender communities. Critical Social Policy,27, 462– 486. https://doi.org/10.1177/0261018307081808 Crossref Web of Science®Google Scholar

spotlighting the challenges that transgender fostering and parenting mean for Trans Kenyans. Riggs et al. (2016) found that pathways to parenthood differed, with the majority likely to foster, adopt or have their partner give birth. There is dire need for more information regarding fertility options and access to reproductive healthcare providers who respect, support and understand their gender identity (De Sutter et al., 2002).[8]

Health Insurance by primary gender identity today

Transgender men respondents were more uninsured (77%) as compared to Transgender woman (75%). Transgender respondents, overall, reported public insurance at 18% and 7% for private insurance, however, it worth noting that majority in this study reported being uninsured. The findings on health insurance disaggregated by primary gender identity is presented in Table 2

Table 2: Health Insurance disaggregated by primary gender identity

Gender Identity	Uninsured	Public Insurance	Private Insurance
Trans women	75%	18%	7%
Trans men	77%	14%	9%
Transsexual	100%	0%	0%
Transvestite/cross-dresser	88%	6%	6%
Androgynous/intersex	69%	19%	13%
Gender diverse*	71%	22%	7%
Cisgender man	50%	50%	0%
Cisgender woman	100%	0%	0%
Overall	**75%**	**18%**	**7%**

Being uninsured poses unique health care threat for the transgender. Transgender are unable to obtain health insurance for a variety of reasons, including categorical exclusions of transition-related care and specific transition-related procedures, limits on coverage for transition-related care if those limits are discriminatory, refusal to enroll transgender in a health plan, cancelling your coverage, or charging higher rates because of your transgender status and denying coverage for care typically associated with one gender.[9] The burden of fighting against this level of adversity when people are physically ill or injured represents a significant barrier to care. This adversity has contributed to the high incidence of transgender avoiding seeking needed health care.[10]

Unpacking UHC, quality of care, health financing schemes (NHIF) remains crucial for gender affirming care given its expensive nature. Access to primary health care services for outpatient and inpatient services and reproductive surgery including follow-up mechanisms for post-surgical services for transgdner people needs deep consideration in UHC discourse.County Universal Health Coordinator.

Studies assessing the financial implications of covering transgender-related health care have demonstrated that the cost of care to insurers, including hormones and surgical therapies, is relatively small. Hormone therapy, which around 75 percent of transgender seek, starts at $20 to $80 a month and is usually taken for the duration of a person's life after transition. Surgeries

[8] De Sutter, P., Kira, K., Verschor, A., & Hotimsky, A. (2002). The desire to have children and the preservation of fertility in transsexual women: A survey. International Journal of Transgenderism, 6, 3. http://www.symposion.com/ijt/ijtvo06no03_02.htm Google Scholar

[9] https://transequality.org/know-your-rights/health-care

[10] Grant JM, Mottet LA, Tanis J, Harrison J, Herman J, Keisling M. Injustice at every turn: a report of the National Transgender Discrimination Survey(link is external). National Center for Transgender Equality and National Gay and Lesbian Task Force; 2011 [cited 2016 Mar 17].

range widely in type and cost anywhere from $5,000 to $50,000 each, although many Trans people do not desire surgical treatment. Perhaps of even greater significance is the finding that providing this coverage is cost-effective. Untreated gender dysphoria leads to high rates of adverse — and expensive – outcomes, including HIV infection, depression, suicidality and drug abuse. The cost of accepting these outcomes outweighs the cost of treating their cause.[11]

Education is a fundamental human right. It can expand our horizons, help us learn about our world and ourselves and build foundational skills for our working lives. In Kenya, there is a strong connection between one's level of educational attainment and income. In addition, individuals who have higher education levels are less likely to be dependent on public safety-net programs, to be incarcerated, or to experience extreme poverty. Unfortunately, not all Kenyans have the opportunity to pursue education in a safe environment. Survey data shows that transgender and gender non-conforming people are currently unable to access equal educational opportunities because of harassment, discrimination and even violence.[12] Survey participants experienced toxic levels of harassment and violence perpetrated by teachers (state officers) undermining national values and principles of governance enshrined in Article 10 of the Constitution of Kenya 2010 on standards of conduct for state officers in enforcing human rights approaches advancing human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized.

In most cases, the participants recorded a high number of harassment cases perpetuated by fellow students, including physical assault. Some notable cases included expulsion from school or college by school administrations resulting to low educational achievement thereby limiting their income. Primary level: 79% of the 110 respondents in primary schools reported harassment by fellow student, 9% were harassed by teachers, 7% were physically assaulted by teachers/ students and 5% were expelled from school. SOGIESC violence were rampant even at the lowest education levels yet the law guarantees basic education for all. 61% of the 119 respondents who affirmed their gender identity in High school reported harassment by fellow students, 15% experienced expulsion from school, 14% of respondents reported harassment by teachers, 7% reported physical assault by the teachers/students and 3% reported sexual assault by teachers/students. University level: transgender remain invisible given the uneven legal protections that guarantee full inclusion and prohibits discrimination that remains unprogressive.

Data suggest that 19% of transgender reported to have been harassed by fellow college mates, while another 12% had either been physically assaulted by either faculty member of college mates, while another 4% severe mistreated by being expelled from the university altogether. In terms of gender affirmation, participants from Nairobi County were more likely to affirm their gender as compared to their counterparts in rural-urban counties. Participants were asked a series of questions to explore their experience of the educational system when they attended school as a transgender person. Participants who answered these questions may have done so because they openly affirmed their gender identity at school or in some other way expressed gender affirmation. 74% of the study participants affirmed their gender identity in pursuit of their educational goals. When gender affirmation at school was checked against respondents' level of education, 14% of the respondents had primary level of education, 44% had secondary

[11] https://www.npr.org/sections/health-shots/2019/03/12/701510605/fresh-challenges-to-state-exclusions-on-transgender-health-coverage

[12] Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. Injustice at Every Turn: A Report of the National Transgender Discrimination Survey. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

level of education and 42% had tertiary levels of education.

Gender Affirmation at school by primary gender identity today

A vast majority (43%) of Trans women (M2F) today affirmed their gender identity at school. Twenty two percent (22%) of Trans men (F2M) affirmed their gender identity at school. Other primary gender identity categories today included; Gender diverse (18%), Androgynous (8%), Transvestite / cross-dresser (6%), cisgender man (2%) and cisgender woman (1%) who affirmed their gender identity at school.

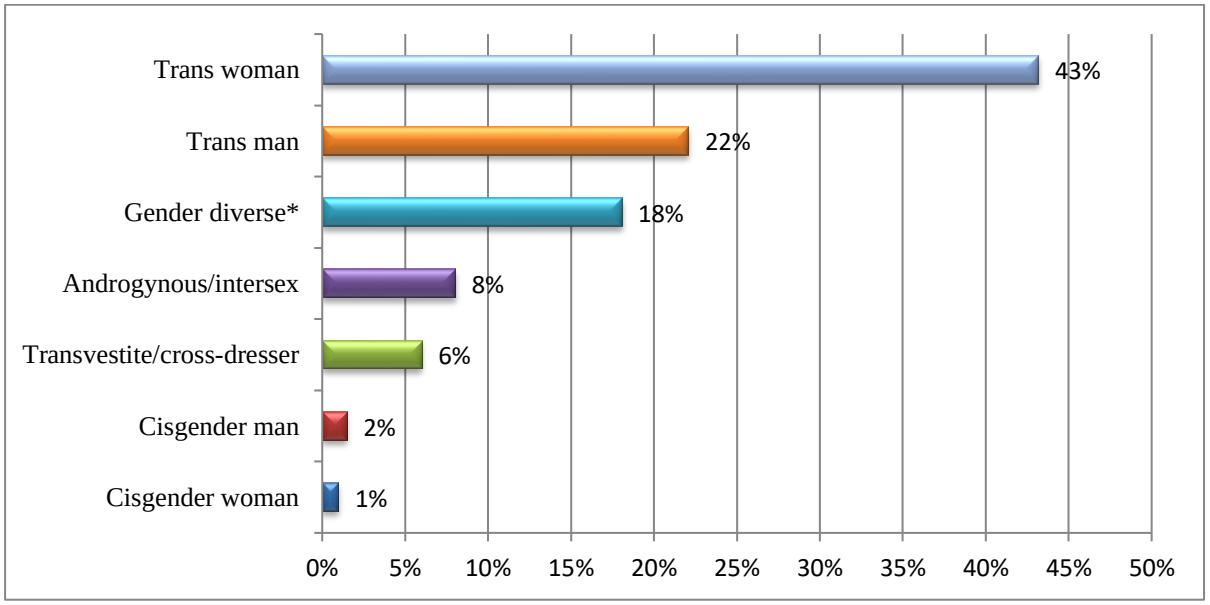

Figure 1: Gender Affirmation at school by primary gender identity today

Gender Affirmation at school by household income

It was worth noting that, lower current household income was strongly associated with gender affirmation at school. Seventy one percent (71%) of respondents under Kshs. 10, 000 income affirmed their gender identity at school as compared with respondents with between KShs 10,000 – 20,000 of income (17%) and those with above KShs 20,000 income (12%).

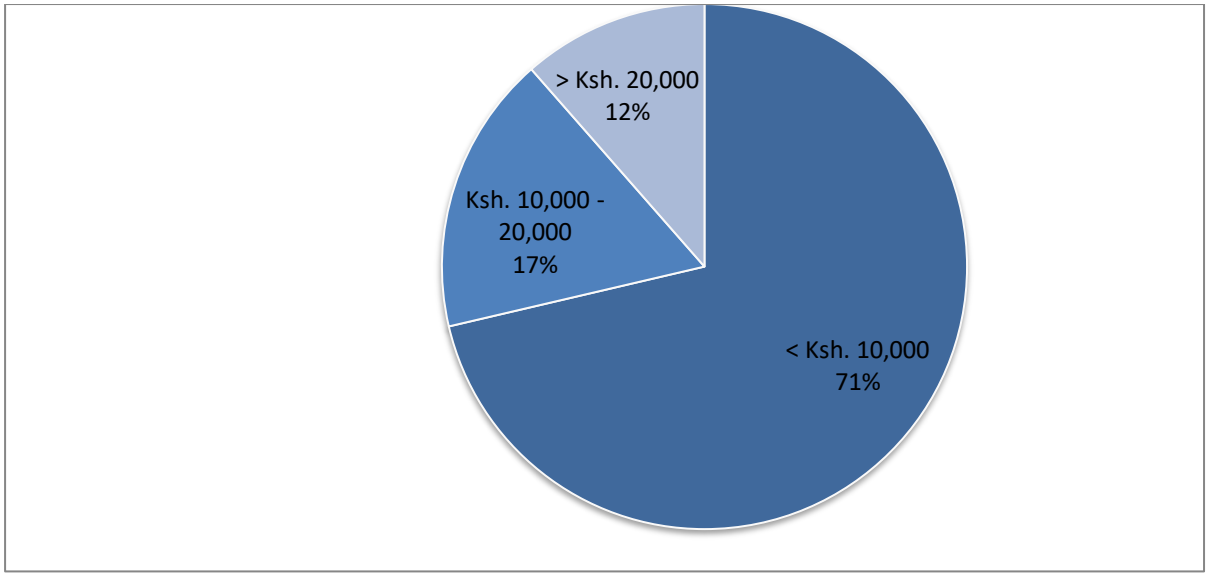

Figure 2: Gender Affirmation at school by household income

SOGIESC Violence in Primary (n=110)

79% of the 110 respondents who affirmed their gender identity in primary schools reported harassment by fellow student, 9% were harassed by teachers, 7% were physically assaulted by teachers/ students and 5% were expelled from school.

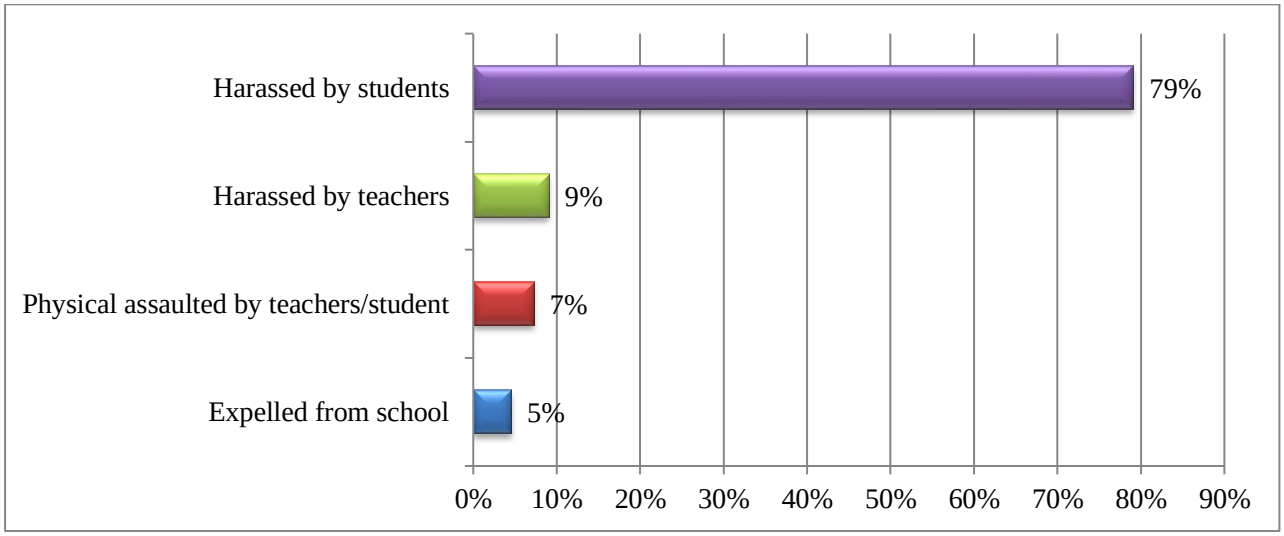

Figure 3: Experience of SOGIESC Violence in Primary School

The impact of SOGIESC violence on transgender students mean that: (1) they have to perform gendered-specific tasks, or sort themselves in gendered groups in physical education classes; policies might force students to wear gendered uniforms based solely on their legally-recognized gender; students may be barred from accessing gendered facilities (such as toilets, bathrooms or changing rooms) they feel align best with their own gender identity; or schools may insist on using students' legally-registered name and gender, including on certificates, ignoring students' lived gender identity. SOGIESC based violence negatively impacts students` health, achievement and wellbeing. School-based violence harms those involved: victims, perpetrators and bystanders. Harm manifests in adverse mental and physical health, as well as

poorer educational outcomes – and later, economic outcomes. For victims, coping with SOGIESC-based violence often requires concealing their identity or acting. This may lead to minority stress: stress specific to those belonging to a social minority, caused by their constant adaptation to a majority environment (for example, heterosexuality) at odds with their identity.[13]

Work place / Employment

Employment is fundamental to people's ability to support themselves and their families. Paid work is not only essential to livelihood; it also contributes greatly to a sense of dignity and accomplishment over a lifetime. The Universal Declaration of Human Rights asserts the rights of individuals to work at the job of their choice, receiving equal pay for equal work, without discrimination. Yet far too often, transgender are denied these basic human rights.[14] 49% of the respondents indicated having been denied a job because of being transgender/ gender non-conforming. 37% of the respondent reported having been denied a promotion at the work place because of being transgender/ gender non-conforming. 42% of the survey participants had lost their job because of being transgender / gender non-conforming. There was a significant association between sex work and respondent being denied a job ($\chi^2_{(1)} = 10.92$; p=0.006), losing a job ($\chi^2_{(1)} = 12.71$; p=0.001) and household net income ($\chi^2_{(2)} = 21.24$; p=0.004). Given that that transgender and gender non-conforming people are often denied access to, forced out of or grossly mistreated in traditional employment markets, it follows that underground work can be an essential survival strategy.

We asked the respondents *How many people know or believe you are transgender/gender non-conforming in the workplace* We found that over a quarter, 26% of the respondents reported that most or all coworkers knew they were transgender or gender non-conforming. Another 41% said some or a few coworkers knew, and 33% said no one knew

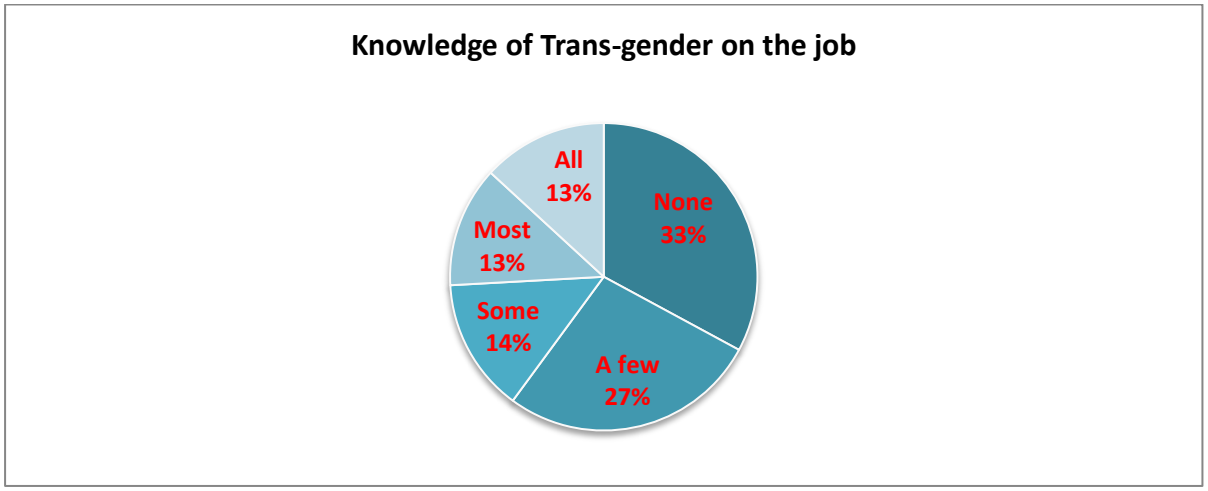

Figure 4: Affirming gender Identity at Workplace

[13] G.-K. Charonis, A. Kokkinou, D. Prisacariu, and E. Tamulionyte, "Teacher's Guide to Inclusive Education," International Lesbian, Gay, Bisexual, Transgender and Queer Youth and Student Organisation, Brussels, Belgium, 2015.

[14] See Human Rights Campaign https://thegrio.com/2020/03/24/LGBTI-community-covid-19-human-rights-campaign/

Denied Job by County

Overall, nearly a half (49%) of the respondents indicated having been denied a job because of being transgender/ gender non-conforming. Over a quarter (28%) of the respondents in Nairobi County had been denied of a job, Mombasa County at 17%, Kisumu County at 15% Kilifi and Kakamega Counties at 10% followed this. Kisii was the least County where respondents were denied a job because of being transgender/ gender non-conforming.

Relationship between Sex work- and Work-related discrimination

In-depth analysis demonstrates that there was a significant association between sex work and respondent being denied a job ($\chi^2_{(1)} = 10.92$; p=0.006), losing a job ($\chi^2_{(1)} = 12.71$; p=0.001) and household income ($\chi^2_{(2)} = 21.24$; p=0.004).

Table 3: Association between Sex work, Employment and Household income

Work related discrimination	Chi-Square Value	Degree of freedom	p-value
Denied A Job	10.92	1	0.006
Lost a Job	12.71	1	0.001
Household income	21.24	2	0.004

Housing and Homelessness

The various forms of direct housing discrimination faced by respondents included 44% being denied a home or apartment and 42% being evicted because they were transgender or gender non-conforming. 37% of respondents became homeless at some point because they were transgender or gender. Non-conforming, and (61%) of respondents were currently homeless. Those who had experienced homelessness were more likely to have been incarcerated (51%) than those who had not (49%), and were almost twice more likely to have done sex work for income (60%) than those who had not (40%). This was statistically significant at ($\chi^2_{(1)} = 27.07$; p<0.001). They were less likely to be HIV-positive (42%) than those who had not (58%), and twice more likely to have attempted suicide (63%) than those who had not (37%) with statistically significant of ($\chi^2_{(1)} = 24.02$; p<0.001). Of the 61% of respondents who had experienced homelessness, about a third (33%) reported trying to access a homeless shelter during that time. Of these numbers, forty, 48% had to live as wrong gender, 46% left the shelter, 42% of the respondents were harassed by resident/staff, 34% of the respondents were denied access to shelter and another 34% were thrown out, a quarter (25%) of the respondents were physically assaulted and 24% of the respondents were sexually assaulted. Respondents were forced to use various strategies to secure shelter including moving into a less expensive home/ apartment (44%), moving in with family or friends (46%), and having sex with people to sleep in a bed (46%). Respondents demonstrated resilience: Of the 44% who reported facing housing discrimination in the form of a denial of a home/apartment, 39% reported being currently housed.

Table 4: Association between respondent's homelessness and various negative outcome

Negative outcome	Homelessness		Chi-Square Value	p-value
	Yes	No		
Police Incarceration	51%	49%	0.22	0.641
Sex work for Income	60%	40%	27.07	<0.001*
HIV Positive	42%	58%	0.28	0.964
Attempted Suicide	63%	37%	24.02	<0.001*

*Significant at p<0.05

Public Settings and Accommodations

A public accommodation is any place that provides the public with goods and services. Public accommodations include most social services, libraries, retail stores, gas stations, hospitals, health clinics, restaurants, grocery stores, and homeless shelters. When using public accommodations, transgender may experience discrimination despite the existence of civil rights laws that prohibit certain businesses from discriminating against customers. In some cases, this is because they are not listed or protected by a particular law. They may be treated differently than those who are not transgender, and may even face the threat of violence.[15] 26% of the respondents reported Gender Based Violence (GBV) rape cases, 20% reported GBV in domestic partnerships, 11% reported GBV cases in mental health clinics, 6% reported GBV in the criminal justice system, 5% reported GBV cases by government agencies, and 2% reported least GBV cases in hospitals and hotels/restaurants. Respondents reported being denied equal treatment or services in the following public places; 62% in Doctor's offices, 57% by Judge/ Court Officials / Legal Services, 55% when interacting with government agency officials. We asked respondents to report on experiences they have had in various places of public accommodation, such as restaurants, hotels and emergency services. Participants were asked if they had experienced being denied equal treatment or service, verbal harassment or disrespect, and physical assault or attack based on being transgender/gender non-conforming in 9 kinds of public places

Denied Equal Treatment in Public Places

Denial of equal treatment in public accommodations was reported more often in some types of public accommodation or when accessing certain services. This study offered 9 types of public accommodation for which respondents could report their experiences. The following graph list those types and the corresponding rates of denial of equal treatment that respondents reported in those areas

[15] https://www.justia.com/lgbtq/transgender-rights/public-accommodations/

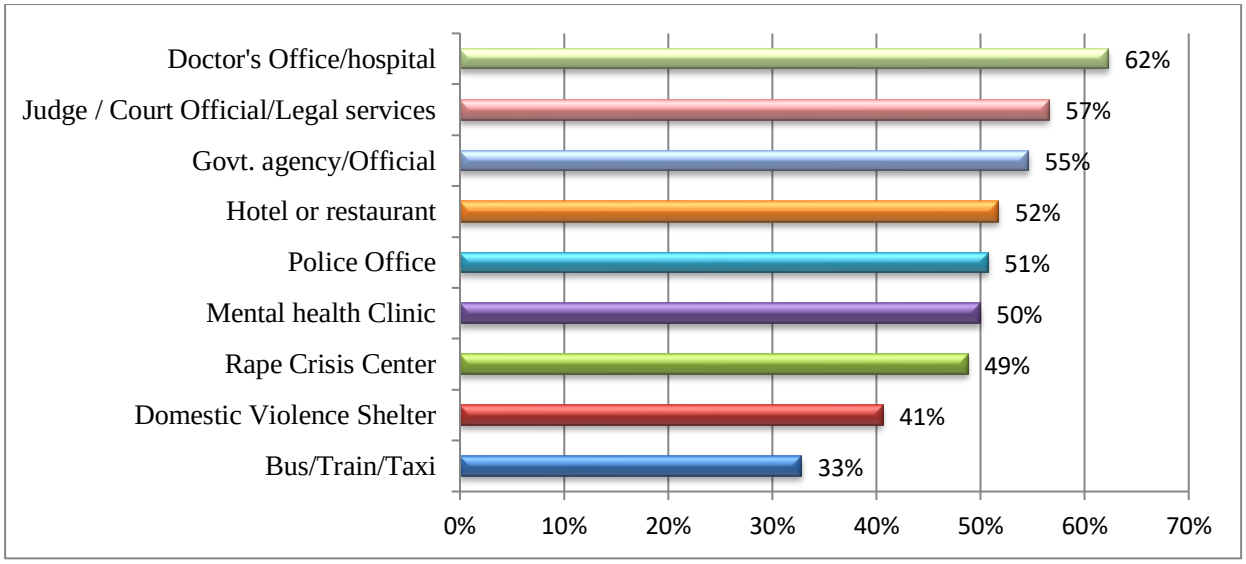

Figure 5: Respondent denied equal treatment in public places

Respondents reported denial of equal treatment or service at all 9 listed types of public places, ranging from 33% to 62%. The highest rate of such mistreatment occurred at Doctor's office/hospital (62%), followed by Judge/Court Officials/legal services (57%) and when interacting with a government agency or official (55%) and hotel/restaurant at 52%. Police officers were reported to have denied equal service or treatment to 51% of respondents[16]. Other public places where respondents reported relatively high rates of discrimination included mental health clinic (50%), rape crisis center (49%), domestic violence shelter (41%) and bus/train/taxi (33%).

When we are going out to the clubs, we have challenges with the bouncer sometimes you might find you've gone to a particular club and they can't let you in because of your drama they say Trans are dramatic or they say you are gay. Transgender. There are a lot of rape cases kumjaribu ajirekebishe; they are being abused, psychological torture. County Community Health Focal Person. The implication of transgender identity expression could be like access to the toilet as we have male and female, so like you find somebody goes to urinal, it would look like you don't know where to go and it would be an insult. Transgender

Health Insurance Records

When the respondents were asked if they have been able (allowed) to change their Health Insurance Records to reflect their current gender, out of the 15 respondents who reported being denied to change their Health Insurance records, majority (67%) were Trans women respondents as compared to any other gender identity.

[16] It should be noted that the analysis excluded "Not Applicable respondents" and those who did not experience these negative outcome

Table 5: Change of Health Insurance Records by gender identity

Gender Identity	Yes, Change Allowed (n=24)	No, Change Denied (n=15)	Not Tried (n=156)	Overall (n=195)
Trans women	58%	67%	47%	50%
Trans men	17%	7%	19%	17%
Transsexual	0%	0%	1%	1%
Transvestite/cross-dresser	13%	7%	4%	6%
Androgynous/intersex	0%	7%	8%	7%
Gender diverse*	8%	13%	17%	16%
Cisgender man	4%	0%	3%	3%
Cisgender woman	0%	0%	1%	1%
TOTAL	**100%**	**100%**	**100%**	**100%**

Criminal Justice System (Police and Incarcerations)

According to Article 27 of the Kenyan constitution, every person is equal before the law. Article 27 (4) of the Constitution says that: The State shall not discriminate directly or indirectly against any person on any ground. Most people interact with police officers during the ordinary course of their lives. Transgender and gender non-conforming people may have higher levels of interaction with police. They are more likely to interact with police because they are more likely to be victims of violent crime, because they are more likely to be on the street due to homelessness and/or being unwelcome at home, because their circumstances often force them to work in the underground economy, and even because many face harassment and arrest simply because they are out in public while being transgender. Criminal justice is the delivery of justice to those who have committed crimes. The criminal justice system is a series of government agencies and institutions. Goals include the rehabilitation of offenders, preventing other crimes, and moral support for victims. The primary institutions of the criminal justice system are the police, prosecution and defense lawyers, the courts, prisons and probation agencies.[17]

Globally, individuals who identify as LGBTI endure a vast array of discriminatory laws and practices. These include entrenched forms of heteronormative bias in community, school and work settings; legal prohibitions on certain sex practices; legal prohibitions on freedom of expression, including freedom of speech and freedom of association; homophobic hate speech; and homophobic hate crime, including physical violence and killings.[18] This in consequence, affects people's practical ability to enjoy equal protection of procedural safeguards and non-discriminatory treatment in practices by police and other actors in criminal justice and undermines the fairness of proceedings, their outcomes, and overall trust in the justice system. 43% of those interacting with police reported, officers generally have treated me with disrespect. Over a third, (38%), indicated, officers have harassed me. In addition, 34% reported, officers generally have treated me with respect. 28% of the sample reported that they were very uncomfortable seeking help from police with another 27% of the respondent indicating somewhat uncomfortable while only 18% reported that they were comfortable doing so with another 12% indicating that they were somewhat comfortable. The respondents who were serving their jail/prison term reported harassment by other inmates. 61% of the respondent

[17] https://en.wikipedia.org/wiki/Criminal_justice
[18] https://www.unodc.org/e4j/en/crime-prevention-criminal-justice/module-9/key-issues/3--discrimination-and-violence-against-individuals-that-identify-as--or-are-perceived-to-be--lgbti.html

reported harassment, 23% reported physical assault or attack, 11% indicated sexually assaulted or attacked and 5% reported being denied hormonal treatment.

Police Interaction

When the respondents were asked, *Have you ever interacted with the police as a transgender/gender non-conforming person?* 53% of the survey respondent had interacted with the police as a transgender/gender non-conforming person while 47% of the respondents had not. This indicates that a majority of transgender Kenyans interface with the criminal justice system at point of entry with law enforcement agencies. This could be due to: (1) pervasive stigma and discrimination experienced as a result of unsafe schools and harsh disciplinary policies, family instability and poverty, family rejection, and negative experiences in the child welfare system especially for many transgender youth; (2) the impact of discriminatory enforcement of criminal laws that rely on outdated science and stereotypes that push transgender in the criminal justice system; and (3) the impact of police profiling tactics (policing of gender norms, minor crimes that criminalize public behaviors often abused by law enforcement officers, aggressive enforcement of anti-prostitution statutes, stop-and-frisk-profiling, and heightened risk of presumed unauthorized immigration status of transgender) that have a disparate impact on these communities, resulting in increased rates of arrest and incarceration as well as abuse and violence by police.[19]

I have always had issues with the police, there was a woman we used to argue a lot with where i stay when I reported her to the police, at the police station she called me gay, then the police officers asked if am homosexual that only made me feel broken already. Transgender

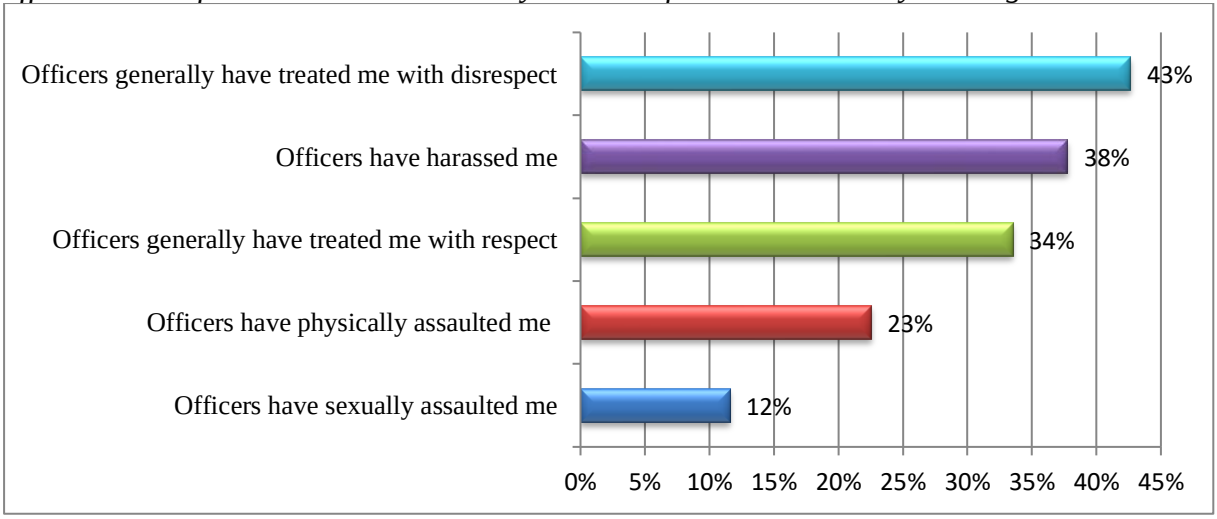

Figure 5: Respondents' experience interacting with police

Comfort in Seeking Police Assistance

The respondents were further asked, *as a transgender/gender non-conforming person, how comfortable do you feel seeking help from the police?* Police harassment and assault had an apparent deterrent effect on respondents' willingness to seek out help from law enforcement; 28% of the sample reported that they were very uncomfortable seeking help from police with another 27% of the respondent indicating somewhat uncomfortable while only 18% reported

[19] https://www.lgbtmap.org/file/lgbt-criminal-justice-poc.pdf

that they were comfortable doing so with another 12% indicating that they were somewhat comfortable.

The lack of a competent response from law enforcement can push some transgender unfairly into the criminal justice or immigration enforcement system. The evidence indicates when seeking assistance from law enforcement officers, transgender is often met with a lack of understanding, or they often do not have their complaint taken seriously or are not responded to quickly. Police may try to justify why a perpetrator acted the way they acted, particularly in cases involving transgender whom police officers may see as engaging in gender fraud[20] especially on intimate partner violence hate crime. Sometimes they are even arrested alongside, or instead of, the perpetrator.

Relations with Law Enforcement Agencies remains a difficult issue to pursue for county governments. Expediting cases and access to justice remains hideous given the fact that security is not a devolved function. With function remaining a national government function, counties can only provide referral pathways for survivors of sexual and gender-based violence. County Quality Assurance and Improvement Coordinator. One time the police officer said to me it was okay for me to be beaten up because of being gay. He could not tell the difference of the person I am and what he thought I was. Transgender

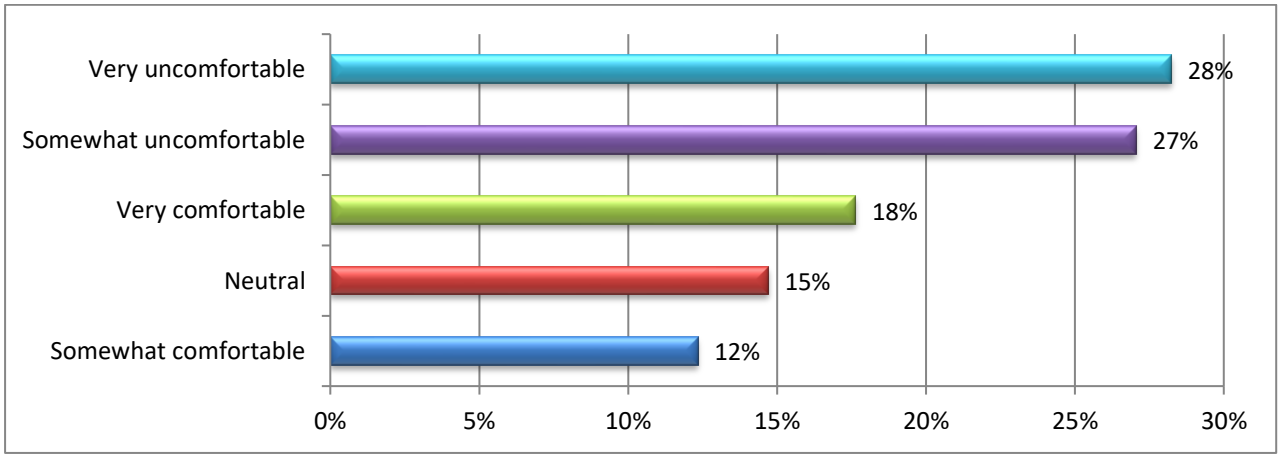

Figure 6: Respondents' comfort in seeking police assistance

Incarceration and Detention

The UN Standard Minimum Rules for the Treatment of Prisoners establishes minimum standards on a range of matters. They include accommodation conditions, adequate food, personal hygiene, clothing and bedding standards, exercise, medical services, and disciplinary procedures. The Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment now complements these rules. Australia ratified this treaty in 2017. This obliges States to set up preventive monitoring mechanisms to maintain detention standards.[21] The Special Rapporteur on Torture has encapsulated well the particular situation of sexual minorities deprived of liberty in the criminal justice system: (i) LGBTI people are considered as a sub-category of prisoners and detained in worse conditions of detention than the larger prison population; (ii) LGBTI people are subjected to considerable violence, especially sexual assault and rape, by fellow inmates and, at times, by prison guards;

[20] http://williamsinstitute.law.ucla.edu/research/violence-crime/comparison-hate-crime-rates-update
[21] https://www.qhrc.qld.gov.au/your-rights/human-rights-law/right-to-humane-treatment-when-deprived-of-liberty

(iii) failure by the state to take reasonable measures to abate the risk of violence by fellow inmates or even to have encouraged sexual violence, by identifying members of LGBTI people to fellow inmates for that express purpose including using threats of transfer to main detention areas, where members of LGBTI people would be at high risk of sexual attack by other inmates; and (v) more disproportionately impacted in particular are trans people exposed to heightened risk of physical and sexual abuse by prison guards and fellow prisoners if placed within the general prison population.[22]

5.0 DISCUSSION OF THE FINDINGS

Transgender and gender non-conforming people face staggering rates of harassment mistreatment, and discrimination at work. The most obvious sign of this discrimination was the extremely high unemployment figures, double the rate of the general population at the time of study. Underemployment and low household income were also widely reported. Many report changing jobs to avoid discrimination or the risk of discrimination. Again, employers should be aware how environments hostile to transgender workers negatively affect their bottom line, as they lose experienced employees and face the added expense of hiring and training replacements. High rates of workplace abuse and unemployment among respondents, and resulting poverty, indicate that anti-transgender discrimination has left many in a position where sex work and drug sales are necessary for survival. For instance, our In-depth analysis demonstrated that there was a significant association between sex work and respondent being denied a job ($\chi^2_{(1)} = 10.92$; p=0.006), losing a job ($\chi^2_{(1)} = 12.71$; p=0.001) and household income ($\chi^2_{(2)} = 21.24$; p=0.004).

Awareness has grown throughout the world in the past decade of the gravity and extent of violence and discrimination directed at LGBTI people. Ending these abuses is increasingly the focus of discussion in many countries and at the United Nations. Nevertheless, standards of legal protection for members of the LGBTI community still vary dramatically from country to country. Seventy-three UN Member States continue to criminalize same-sex relationships and many criminalize trans people. Even in countries with more progressive legal frameworks, deep-rooted stigma and negative stereotypes perpetuate discrimination against LGBTI people, including in the workplace, marketplace, and community. While the state have the primary obligation to respect, protect and fulfil human rights, companies also have an independent and complementary responsibility to respect human rights in their own operations and business relationships.[23] Housing insecurity for transgender and gender non-conforming people is a crisis. Respondents reported direct discrimination by housing providers and negative housing impacts of discrimination in other critical areas of life such as employment, health care and criminal justice. Accordingly, respondents were forced to employ various strategies to secure places to live. For transgender and gender non-conforming, people who became homeless, safety nets meant to help people in a housing crisis often failed.

Study participants reported enduring harassment, physical attack, and sexual assault perpetrated by both shelter staff and other residents. The need for safe shelters for transgender is severe. Unfortunately, social service and homeless shelters that work with this population often fail to culturally and appropriately serve transgender homeless people, including denying them shelter based on their gender identity; inappropriately housing them in a gendered space they do not identify with; and failing to address co-occurring issues facing transgender homeless adults and youth. Transgender and gender non-conforming people experience grave

[22] See Report of the Special Rapporteur to the UN General Assembly, 3 July 2001, A/56/156, para.23.
[23] OHCHR (2017). Standards of Conduct for Tackling Discrimination against LGBTI people for Businesses or https://www.unfe.org/standards/

abuses when accessing everyday goods and essential services, from retail stores and buses to police and court systems. From disrespect and refusal of service to harassment and violence, this mistreatment in so many settings contribute to severe social marginalization and safety risk. Study participants' experiences demonstrate the overwhelming need for legal and policy protections to ensure access to essential services and prospects for living fully and moving freely in public and social settings. Throughout this chapter, we discussed physical assault in numerous places of public accommodation.

In the Health chapter, we examine the impact of surviving assault on other social, economic and health outcomes.The data on public accommodation show that gender non-conforming respondents and transgender men generally reported higher rates of unequal service and verbal harassment/disrespect than transgender women (though not true in regard to interactions with judges/court officials and legal services). Public accommodation laws (PALs) are used to address discrimination against minorities. There is broad discussion about using such laws to either protect or prohibit access to sex-segregated spaces for transgender. Those who disagree with transgender PALs seem to sincerely believe that such regulations put cisgender women at risk, generally due to multiple misconceptions about gender, sex, and power common in society and reinforced by transphobic narratives. As such, professional education about gender affirmation should not simply dictate inclusive behavior but should explore reasons why people might be tempted to resist such behavior.[24] Respondents revealed gross differences in treatment by police and prison systems. The damaging effects of being denied general health care are selfevident; however, it is important for readers to also understand that denial of hormone treatment to transgender inmates also has serious health consequences. Interruptions in hormone therapy can be physically painful and damaging to a person's physical and mental health, and the initiation of hormone therapy for those who need it is highly important.

Household income and education level were also relevant to treatment by police and the prison system, with lower educational attainment and household income associated with higher risk for incarceration, harassment and violence. A nexus of biases based on gender identity, educational achievement, underground economy, household income combines to leave some respondents in this study in particularly desperate circumstances at the hands of the law enforcement system. Identity documentation in Kenyan society forms an important element of public life and key determinant of access: persons without valid identification may face arbitrary arrest and detention by law enforcement; withholding of services such as healthcare, banking, education, employment, and travel. Persons wishing to have their gender marker amended in identity documents or other documents conferring legal status face hardship arising from lack of policies to govern this process. Gender-incongruent identification exposes respondents to harassment and violence. Having transition-related surgery is, by far, the single biggest factor in obtaining gender-congruent identification and, it appears that government agencies and other institutions that maintain IDs and records discriminate based on sex reassignment.

6.0 CONCLUSION

Discriminatory laws and socio-cultural norms continue to marginalize and exclude trans-intersex and gender diverse persons from education, health care, housing, employment and occupation, and other sectors. The marginalization and peripheralization are part of a vicious cycle that give rise to a host of other problems. In a context where access to economic, social

[24] https://journalofethics.ama-assn.org/article/public-accommodation-laws-and-gender-panic-clinical-settings/2018-11

and cultural rights is hampered, a series of negative impacts on individuals, their families, groups and communities can be observed, resulting in poverty and exclusion. The exclusions lower socioeconomic status and limits the access to assets that are essential to enjoy the full range of human rights. The excluding environment inevitably leads to violence and discrimination, as it hampers access to their rights, creates inequality of opportunity and access to resources. Addressing the social and economic rights of transgender, intersex and gender diverse people is critical to any efforts to address violence and discrimination on the basis of sexual orientation and gender identity. Under the 2030 Agenda for Sustainable Development, the international community committed to leaving no-one behind. In order to lift trans-intesex and gender diverse people from cycles of exclusion and abuse, we must critically examine these issues as well as emerging good practices. It is in the spirit of trans-intersex and gender diverse people everywhere who continue to thrive and contribute to their communities, despite all of the injustices they suffer and the barriers to their well-being.

6.0 RECOMMENDATIONS

The state should ensure as part of its due diligence obligation that all government funded programs, Medicaid and Medicare, Children's Health Insurance Program, and Health Services, include coverage of transition care and a requirement to ensure safe, appropriate, and sensitive care in government funded health centers and to protect transgender from discrimination by private insurance including the expansion of Medicaid to significantly increases transgender's access to medical care. The state should enhance access to medical care through specialized clinics and health care centers based on existing general health care systems. The state should ensure that transgender-specific care is incorporated into medical, nursing, and paramedical curricula, as has been done with other cultural competencies to address bias against transgender that takes an enormous toll on their health outcomes through direct harm, lack of appropriate care, and a hostile environment resulting to avoidance of the healthcare system. Clear guidelines for all state funded health centers, in line with the WPATH[25] standards of care protocols and TRANSIT[26] need to be domesticated and adopted by leading medical societies, including guidelines related to appropriate language, adoption of gender-neutral bathrooms, health records respectful of names and gender pronouns, and other safe environment measures. The State should ensure that national surveys and health-related data collection systems gather information about populations of transgender by including questions pertaining to gender identity and sexual orientation (2-step algorithm). Inclusion of such questions is a necessary step toward building a foundation of knowledge regarding the health and needs of transgender.

The state should conduct policy research with the aim to compile, disseminate and encourage the use of data relevant tracking policy differences and changes over time. The state should remain committed to research transparency, replication and data reliability directing public policy analysis to be relevant, useful for action especially on issues relating to stigma and discrimination of transgender in health sector programmes in Kenya. Moreover, inertia in efforts to combat stigma and prejudice against transgender populations in the Kenyan public health sector. The transgender populations should be engaged as stakeholders in the development of policies and guidelines for the public health sector. The state should adopt comprehensive, evidence-based policies to prevent and address violence based on sexual orientation, gender identity/expression or sex characteristics effectively. These policies should mention these grounds explicitly; address the specificities of this type of violence, including

[25] World Professional Association of Transgender Health (WPATH)
[26] Implementing Comprehensive HIV and STI Programmes with Transgender: Practical Guidance for Collaborative Interventions (the "TRANSIT")

issues of privacy and discrimination; and address all forms of violence, particularly verbal harassment, bullying and online bullying. The state should systematically monitor violence on grounds of sexual orientation, gender identity/expression or sex characteristics. Although responses can be developed based on past practice and research, consistent monitoring of violence alone will enable developing sustainable and impactful responses. The state should review their curricula to ensure they include factual and non-judgmental information about sexual and gender diversity. At minimum, curricula should refer to equality and non-discrimination on all grounds.

The state should provide the support, including training, guidance and resources, for teachers and other educational staff to prevent and address SOGIESC-based violence. This entails offering teachers both pre- and in-service training on preventing and addressing violence and on discussing topics related to sexual and gender diversity. The State should ensure all students affected by SOGIESC-based violence have adequate access to protection, support and redress. The families of those affected should also have access to support and information. The State should provide information to educational communities on equality and non-discrimination for all, including on grounds of gender, sexual orientation, and gender identity/expression and sex characteristics. The State should systematically evaluate their response to violence based on sexual orientation, gender identity/expression and sex characteristics. The State should respect Human rights by developing policy commitments; conduct due diligence to identify, prevent, mitigate and account for, any actual or potential negative impact on the enjoyment of human rights. The State should eliminate Discrimination in the Workplace: among individuals or groups as potential or current employees based on sexual orientation, gender identity, gender expression, or sex characteristics addressing: equal job opportunities and benefits; eliminate discrimination, harassment (external or internal) and violence directed against LGBTI individuals; champion diversity awareness for employees to respect and uphold HR.

The state should prevent other Human Rights violations. Violence, torture and ill treatment against LGBTI people have been documented inter alia in schools, clinics and hospitals, in detention, and in the context of law enforcement or security operations, while incitement to hatred and violence has been documented in the media sector. These sectors should assess whether through their operations or business relations they are causing or contributing to violence, bullying, intimidation, ill-treatment, incitement to violence or other abuses against LGBTI people, and take concrete measures to prevent and mitigate such risks. In the Community the state should ensure businesses transform societies in which they operate taking positive, affirmative steps to respect and promote human rights, using their influence to champion rights through: engaging in public advocacy and intergovernmental forums; question and delay implementing abusive orders that might lead to human rights violations, including human rights violations; support collectives of local grassroots organizations to challenge discriminatory laws and practices, and to engage in social dialogue, negotiation, consultation, and information exchange with trade unions at the sectoral, regional and national levels on issues of common interest relating to rights of LGBTI workers.

The state should enact stronger laws and policies needed to address housing discrimination and insecurity prohibiting both housing discrimination and employment discrimination based on gender identity/expression. The state agencies should fully enforce housing discrimination laws, including already existing protections on law compliance, corrective measures taken to address and mitigate discrimination, and provide an enabling environment for complaint mechanisms and introduce harsh penalties for those who are non-compliant. The state and local support programs should invest in sustainability and holistic interventions that address

challenges of transgender homeless people. This assistance includes such things as: earning a G.E.D., work training, finding a job, transitional housing, health care, updating ID documents, legal services, counseling, and/or assistance with applying for benefits.

The state should ensure nondiscrimination protections (PALs) at all levels. The state should ensure that business enterprises adhere to a standard of due diligence when addressing the issue of violence against transgender. The state should remove any restrictions on the right of transgender to remain in an existing marriage upon recognition of their gender; ensure that spouses or children do not lose certain rights including consider including a third gender option in identity documents for those who seek it and to ensure that the best interests of the child are a primary consideration in all decisions concerning children. The state should enact laws and policy guidelines that guarantee rights-based protections for transgender and to prohibit non-discrimination and profiling based on sexual orientation gender identity including sex characteristics. Laws and policies need to acknowledge legal and gender recognition and prescribe their application to transgender. Laws and policies should obligate state officers to use respectful communication and language when interacting with transgender to affirm their gender identity. Laws and policies should explicitly prohibit police action and to honor civil immigration notification for the purposes of determining immigration status and to provide services to all individuals regardless of immigration status addressing gaps in immigration enforcement cooperation for transgender.

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