

ANALYZING THE CULTURE OF TRANSPHOBIA

The Situational Assessment on Stigma, Discrimination
and violence faced by Transgender Persons
in Sri Lanka

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EXECUTIVE SUMMARY

Transgender is an umbrella term used to include a diverse group of persons who are not comfortable with the gender identity culturally assigned to them at birth. Even though the term was historically used to refer to cross-dressers or transvestites, in contemporary contexts the term has broadened to include a number of gender variant groups.

In different historical, cultural, and other contexts various terms have been used to refer the transgender persons. For example, the term *Nachchi* has been used for a long time for Male to Female (MTF) transgender persons in Sri Lanka in a similar manner with the term *Hijra* in India. In addition there are a number of derogatory terms referring to transgender persons. Also it must be noted that language is itself a strong institution of heteronormativity and gender binarism. Stigma, discrimination and injustice towards transgender persons have been internalized into a societal system by different actors of culture including history, language, religion, traditions, ethics, law and other such social institutions.

There is widespread myth among the public in Sri Lanka that transgenderism is not suitable for a 'Buddhist' country even though Buddhism does not judge transgender persons on the basis of their sexual orientation and gender identity. Victorian morality came with the Colonial rulers who not only introduced laws prohibiting same-sex activities, but also influenced the local cultures to absorb and reproduce Victorian morality in the form of 'Buddhist' and 'Hindu' moralities.

There are a number of issues with regards to the protection of law received by transgender persons. The Fundamental Rights Chapter in the Sri Lankan Constitution mentions that all persons are equal before the law. However transgender persons do not come under equal protection of the law due to the stigma and discrimination they have been facing, as well as the non-recognition of their gender identity by the law itself. The Vagrants law, impersonation law and the criminalization of homosexuality has made them further vulnerable to the human rights abuses they have been facing and continue to face.

This study mainly looks at the violence, stigma and discrimination faced by transgender persons. In this report, in a number of instances, their experiences were quoted with their very own words with the objective of presenting their real-life experiences without isolating what they felt when stigma, discrimination and violence happened.

METHODOLOGY

This is an assessment study conducted using qualitative research methods with the objective of assessing the violence and discrimination faced by transgender persons in Sri Lanka. The interviews were conducted in two districts: Anuradhapura and Colombo.

22 in-depth interviews were conducted with 9 female to male transgender persons and 13 male to female transgender persons on their life experiences on violence and discrimination. A total number of 88 interviews including several focus group discussions were conducted with various key informants and groups such as police officers, lawyers, medical doctors, medical staff, religious leaders, social workers, prison officers, CBO leaders, university academics, university students and LGBTIQ community groups on various topics.



FINDINGS

Transgender persons have faced a number of child rights abuses in their childhood including discrimination, stigma and violence from family members and school teachers. Also, a substantial number of them have faced child sexual abuse during their childhoods.

Psychological stress, suicidal thoughts and suicide attempts were high among the transgender persons interviewed in the study. Except for two persons, all the transgender persons interviewed have had thoughts of committing suicide. Out of 22 transgender persons interviewed, 13 had tried committing suicide. Many of them have not sought counsellors or received proper psycho-social support

Transgender persons have faced lack of employment opportunities, discrimination at workplaces, stigma from fellow workers, and termination from jobs when perceived sexual orientation was discovered. Also, they have faced a number of issues in the job interviews.

Transgender persons have experienced stigma, discrimination and sexual harassments at medical settings. A majority of medical staff were homophobic and transphobic as well as displaying a lack of concern in relation to the right to privacy of transgender persons at medical settings.

Transgender persons have experienced stigma, discrimination and violence in public places in various forms such as non-verbal gestures, verbal insults, threats, physical attacks and police arrests.

12 out of the 22 transgender persons interviewed have experienced violence from police due to their gender identity or sexual orientation. Five persons have not gone to the police when they faced physical attacks, blackmail, and an attempted rape due to their gender identity and sexual orientation.

Many lawyers expressed their disappointment regarding the manner in which the police treat transgender persons, other minorities as well as all the persons arrested in general. Their views further confirmed transgender persons' experiences of police abuse and violence was true.

While the law in the country provides an institutional base for the existence of homophobia and transphobia, the social attitudes are the greatest challenge with regards to many human rights violation issues faced by transgender persons.

There were a number of ethical issues in relation to media reporting on transgender persons such as publishing incorrect information, revealing personal information, stereotyping of the transgender characters, lack of space given to LGBTIQ activists in the media etc.

The common need of transgender persons was to have equal rights similar to other citizens in the country including equal protection of the law, access to employment, non-discrimination on the basis of sexual orientation and gender identity, and having acceptance in society.

Also, it is vitally important to address issues related to internalized homophobia and transphobia. Many transgender persons are still closeted and hide their gender identity and sexual orientation from the entire society.

Securing rights of the trans-children also holds vital importance. Steps must be taken to protect trans-children from sexual, physical and psychological abuse.



1.BACKGROUND

1.1 Introduction

“There’s nothing wrong with men who are considered “masculine” and women whose self-expression falls into the range of what is considered “feminine.” The problem is that the many people who don’t fit these narrow social constraints run a gamut of harassment and violence. This raises the question: Who decided what the “norm” should be? Why are some people punished for their self-expression?” Leslie Feinberg¹

Transgender persons in Sri Lanka have been extremely exposed to various kinds of discrimination and violence including domestic violence, discrimination from family members, sexual harassments, limitations with regards to right to education, right to employment, inequality before the law, and harassments from law enforcement authorities. Their livelihoods are severely affected due the discrimination and violence faced by them.

This study tries to assess the discrimination and violence faced by them, and to explain the link between the violence, discrimination and the livelihoods, and to identify the existing or possible mechanisms for protection of transgender persons in Sri Lanka.

1.2 The term transgender

Transgender is an umbrella term used to include a diverse group of persons who are not comfortable with the gender identity culturally assigned to them at birth. A transgender identity can be varied across geographical borders, cultures and histories. In Sri Lanka, the term ‘nachchi’ is used widely for transgenders in particular Male to Female Trans persons. In India, MTF trans persons are referred to as ‘Hijra’, while in Thailand they are referred to as ‘Kathoei’. In the Pacific Islands like Samoa, they are referred to as ‘Fa’afafine’. In Buddha’s time, the term was ‘ubhato-byañjanaka’, while in early Medina, in Prophet Muhammad’s time, it was ‘Mukhannathun’ and according to Hinduism it is ‘Aravani’. It can be a modern identity such as ‘trans person’, and it can be an age old traditional identity such as hijra or kathoei as well. It does not need to represent the binary gender concept at all, so it can be even just the ambiguity and not knowing which identity one belongs to.

Even though the term was historically used to refer to cross-dressers or transvestites, in the contemporary context the term has broadened to include a number of gender variant groups². Transgender – or Trans – is an umbrella term for people whose gender identity or expression is different from those typically associated with the sex assigned to them at birth³. Jamison Green⁴ (2004) describes the term transgender as “breaking or going across gender boundaries”, and says that transgender people experience a sense of separation from their bodies to varying degrees.

1. Leslie Feinberg, 2006 Transgender Liberation, A Movement Whose Time Has Come in Transgender studies reader ed. Susan Stryker and Stephen Whittle

2. Brandon J. Hill and Kimberly R. McBride. 2006 in Encyclopedia of Sex and Gender. Ed. Fedwa Malti Douglas

3. Human Rights Campaign <http://www.hrc.org/resources/entry/transgender-faq> accessed on 14th November 2014

4. Jamison Green. 2004. Becoming a visible man. Vanderbilt University Press. Nashville.



According to Judith Butler⁵ (2004) the term transgender refers to those persons who cross-identify or who live as another gender, but who may or may not have undergone hormonal treatments or sex reassignment operations.

Julie Nagoshi and S. Brzuzy⁶ (2010) mention that transgender persons differ in their degree of belief on the fluidity of gender identity. According to them, some accept such fluidity only to the extent that one can switch between two otherwise separate, essentialist, and pure gender categories; whereas others believe that an embodied gender identity is still highly malleable. This suggests to us that there is a major division in transgender self-identification as who might identify themselves with the perceived opposite gender, and those who might refuse belonging to any gender category.

Transpersons also need to be identified as persons who boldly choose their gender identity against the existing norms of the society, even though some might not express their identity in public due to existing social, cultural constraints.

'Sometimes, one does not dress as a woman to become a woman, but to protest' (Frangipani Sinhala film, 2014). Even though this quote was subjected to some criticisms from LGBTIQ community members in Sri Lanka as untruth, when the film was shown at the Colombo International Film Festival in 2014, it is still a valid question to ask whether the gender expression of trans persons is a form of protest against gender norms and heteronormative structures. By refusing gender norms culturally assigned to one at birth, aren't those transgender persons asking for the right to choose one's gender?

In the contemporary world, the transgender identity is mostly confused with the transsexual, the process of gender reassignment, and one's self identification with the other binary gender identity. Transgender identities have not been limited to transsexual identities or those who identify oneself with the other binary gender category; it also includes all gender identities which differ from the normative gender role one is assigned at birth as well. When broadly considered, everybody would be transgender if accepted gender norms of a culture were used to define an ideal man and an ideal woman.

However, in this research, interviewees coming under the category of transgender were mainly transsexuals and crossdressers with self-identification with the other gender.

This study mainly deals with the concepts of stigma, discrimination and violence faced by transgender persons. Also the term transgender refers to a wide spectrum of persons with different gender identities. This chapter tries to understand and explore the concepts mainly discussed in this study.

1.3 Stigma and discrimination

Stigma and discrimination are two concepts which are very closely attached. Stigma remains to be the cause of discrimination and vice versa.

According to Herek (2010), stigma refers to the culturally shared knowledge that society regards the members of a particular group or category negatively and accords them inferior status in their social interactions with the non-stigmatized⁷. According to Merriam-Webster Dictionary, stigma is a set of negative and often unfair beliefs that a society or group of people have about something⁸.

5. Judith Butler. 2004. *Undoing Gender*. Routledge. New York

6. Julie L. Nagoshi and Stephan/ie Brzuzy. 2010. *Affilia: Journal of Women and Social Work* 25(4) 431-443. Sage Publications.

7. Herek M. Gregory. Sexual Orientation differences as deficits: Science and Stigma in the history of American psychology http://psychology.ucdavis.edu/faculty_sites/rainbow/html/Herek_2010_PSPS_preprint.pdf accessed on November 7, 2014

8. Merriam Webster Dictionary, online version <http://www.merriam-webster.com/dictionary/stigma> accessed on November 7,



The Preamble of the Yogyakarta Principles mentions that stigmatization of LGBTIQ persons due to their gender identity and sexual orientation undermine the integrity and dignity of those subjected to these abuses, may weaken their sense of self-worth and belonging to their community, and lead many to conceal or suppress their identity and to live lives of fear and invisibility⁹.

UNESCO defines discrimination as the selection for unfavourable treatment of an individual or individuals on the basis of: gender, race, colour or ethnic or national origin, religion, disability, sexual orientation, social class, age, marital status or family responsibilities, or as a result of any conditions or requirements that do not accord with the principles of fairness and natural justice¹⁰. According to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), acts of discrimination further include both *de jure* and *de facto* resulting from the activities or omissions on the part of States parties, their agents, or committed by any persons or organizations in all fields of life, including in the areas of politics, economy, society, culture, civil and family life¹¹.

Right to Equality or non-discrimination is a fundamental right in the Sri Lankan constitution which every citizen is entitled to. However as sexual orientation and gender identity are not specifically mentioned in the constitution, it is still arguable whether right to equality in Sri Lanka includes sexual orientation and gender identity.

Amnesty international says *"Discrimination is an assault on the very notion of human rights. Discrimination is the systematic denial of certain peoples' or groups' full human rights because of who they are or what they believe. It is all too easy to deny a person's human rights if you consider them as 'less than human'"*¹².

However LGBTIQ persons are discriminated against in the labour market, in schools and in hospitals, mistreated and disowned by their own families. They are singled out for physical attack – beaten, sexually assaulted, tortured and killed. And in some 76 countries including Sri Lanka, discriminatory laws criminalize private, consensual same-sex relationships – exposing individuals to the risk of arrest, prosecution, and imprisonment. — In at least five countries the penalty for same sex relationships is the death penalty¹³.

1.4 Understanding homophobia and transphobia

Homophobia is the term used to describe the irrational fear, hatred, aversion to or discrimination against people who are homosexual, or same-sex attracted, or who are perceived to be homosexual or same-sex attracte¹⁴. Transphobia entails emotional disgust toward individuals who do not conform to society's gender expectations; [and transphobia] involves the feeling of revulsion to masculine women, feminine men, cross-dressers, transgenderists and/or transsexuals. Specifically, transphobia manifests itself in the fear that personal acquaintances may be trans or disgust upon encountering a trans person... the 'phobia' suffix is used to imply an irrational fear or hatred, one that is at least partly perpetuated by cultural ideology (Hill and Willoughby, 2005)¹⁵.

9.Yogyakarta Principles http://www.yogyakartaprinciples.org/principles_en.pdf accessed on November 7, 2014

10.<http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/discrimination/> accessed on November 7, 2014

11.<http://legal.un.org/avl/ha/cedaw/cedaw.html> accessed on November 7, 2014

12.<http://www.amnesty.org/en/discrimination> accessed on November 7, 2014

13.<http://www.ohchr.org/en/issues/discrimination/pages/lgbt.aspx> accessed on November 7, 2014

14.<http://www.acon.org.au/youth/Homophobia/what-is-homophobia> accessed on 27th Oct 2014

15.as quoted in Hate Crime, Impact causes and responses by Neil Chakraborti and Jon Garland, 2009



Homophobia and transphobia are usually categorized into three major forms (a) internalized homophobia and transphobia (b) interpersonal homophobia and transphobia and (c) institutional (structural) homophobia and transphobia.

Transgender persons become easy victims of both transphobia and homophobia. In many contexts, they are not identified as a separate group, but as homosexuals in common. Sometimes they become more vulnerable to homophobia as feminine men, and masculine women are easily labelled as homosexuals due to their gender identities. For example, many police officers interviewed did not identify transgender persons as different from homosexuals; rather, they preferred to identify feminine men on the streets at night as sex workers. Even in the case of romantic relationships of Female to Male transgender persons, rather than the feminine partner, the masculine looking partner was identified as a homosexual or a lesbian.

However, even within the contexts which are considered to be free from homophobia, transgender people might still experience various forms of transphobia. For example, when entering a school in Sri Lanka, one's sexual orientation is not asked, but the school may not give permission to a woman wearing men's clothes to enter the premises or a man wearing women's clothes to enter the premises. This needs to be considered as a form of institutional transphobia.

In some contexts, homosexuality was tolerated as long as it is kept hidden and secret, however transgender or cross-dressing behaviour was not tolerated. In an informal discussion with the researcher, a MTF transgender person in Colombo said *"my family was okay with my homosexuality, if I behave like a man. Their problem was being born as a male and behaving like a woman. They think it damages our family pride..."*

1.5 Internalized homophobia and Transphobia

Being born in a heterosexist, gender binary society; many persons including some LGBTIQ persons are not free from feelings of transphobia and homophobia. Internalized homophobia and transphobia is the self-acceptance of stigma regarding non-heterosexual, non-binary gender behaviours by the LGBTIQ persons themselves. Psychologists have often assumed that some degree of self-stigma is inevitable in members of socially marked groups¹⁶. Natacha Kennedy and Mark Hellen¹⁷ (2010) argue that trans-children's concealment and suppression of identity for such a long period can lead to problems. Internalized homophobia and transphobia can be a negative result of long time concealment and suppression of identity faced by LGBTIQ individuals. Not only as children, even as adults, many LGBTIQ persons in Sri Lanka still continue to hide their sexualities and gender identities.

Simply, internalized homophobia and transphobia usually refer to self-stigma. *"I actually think this is seriously bad Karma for something I committed in my previous life. Otherwise I will not be born as a person who belongs to neither gender and suffer like this¹⁸"* - believing one's gender identity as a result of ill karma from a previous life is a form of internalised transphobia.

In the meantime, the process of 'othering' transphobic and homophobic feelings can also create new forms of internal homophobia and transphobia. One of the FTM transgender said; *"As far as I know, sex*

16.G.M. Herek, 2009

<http://blogs.law.columbia.edu/genderandsexualitylawblog/files/2012/04/Sexual-Stigma-and-Sexual-Prejudice-in-the-United-States-A-Conceptual-Framework.pdf> accessed on 30th Oct 2014

17.Natacha Kennedy and Mark Hellen. Dec 2010. In Graduate Journal of Social Science, Vol 7 (2)

<http://www.gjss.org/sites/default/files/issues/chapters/papers/Journal-07-02--02-Kennedy-Hellen.pdf> accessed on 27th October 2014

18.1K-TGFTM



between women and women, sex between men and men are sins. One of the five great sins. I think we are not doing that. We are not having same-sex practices. From our minds, we are men. So if we have sex with a woman, it cannot be a sin." To save himself from the feelings of self-stigma as a transgender, he directs his phobia towards same-sex relationships, confirms the legitimization of homophobia to escape from transphobia.

The coping mechanisms and process of 'othering' can include very complex forms of transphobia and homophobia mixed with ethnicity, class, urban-rural difference etc. For example, one of the MTF transgender interviewees in Colombo saw 'transgender' identity as a different identity from the 'Nachchi' identity. According to her '*Transgender*' (transsexual) people are those having access to medical surgeries, hormonal treatments. They are more likely to be like 'the girls' than Nachchis. 'Nachchis' are those who are between two genders, those who are neither male nor female. The trans-people in Anuradhapura are still 'nachchis', and we (trans people in Colombo) have now transformed into 'transgender'. Nachchis do sex work, transgender persons do not do sex work. We don't shout and make noises. We behave well like girls. They don't know how to behave well.' In this instance, she confuses 'transgender' for 'transsexual' and she brings a set of norms on what 'transgender identity' means to her and how it is different from the Nachchi community. There is nothing wrong with that. However, she indirectly suggests marginalising 'the Nachchi' community within the transgender community by not considering them as 'transgender persons' and by categorizing them as 'sex workers' etc. In this case, her internal transphobia is mixed with the stigma towards sex workers and rural, poor people.

1.6 Interpersonal homophobia and transphobia

Interpersonal homophobia is individual behaviour based on personal homophobia. This hatred or dislike may be expressed by name-calling, telling "jokes," verbal and physical harassment, and other individual acts of discrimination¹⁹.

In the context of this study many forms of interpersonal homophobia and transphobia were found. Not only verbal harassments, even non-verbal communication can act as interpersonal homophobia and transphobia. A majority of transgender persons interviewed revealed that they were targets of stigma communicated non-verbally.

Also experiences of interpersonal homophobia and transphobia included a variety of acts including verbal insults, physical assaults, sexual harassments, blackmailing etc.

1.7 Institutional (structural) homophobia and transphobia

Institutional stigma is the stigma perpetuated and legitimized through various social institutions or ideological systems. Forms of institutional stigma usually include discriminatory laws, rules, policies, norms and beliefs etc. In the context of Sri Lanka, not only are the laws criminalizing homosexuality and the vagrants ordinance forms of institutional homophobia, but also such things as the unavailability of public toilets for transgender persons is also a form of institutional transphobia.

Many forms of institutional (structural) homophobia and transphobia are not recognised as discrimination or stigma by many people as such practices have been normalised, unquestioned and practiced for a long time.

19. <http://www.uh.edu/lgbt/handouts/homophobia.pdf> accessed on 7th of November 2014



Deciding a person's gender identity based on the nature of one's sexual organ is a form of institutional transphobia which refuses to consider the diversity of gender identities. Some time ago, Male to Female (MTF) transsexuals were not included in Lesbian and Trans women's groups, even though Female to Male (FTM) transsexuals were considered as women. In the Sri Lankan context, in the term 'LBT women', the 'T' is still usually used to denote Female to Male transgender persons. If Male to Female (MTF) transgender persons are still not accepted as 'women', in the LGBTIQ community itself, will they be accepted by others, as 'women'? A recent LGBTIQ community research²⁰ conducted in Sri Lanka also followed this old definition coming from gender binarism, and not included MTF women as 'women'. These are very complex forms of institutional transphobia very closely associated with internalized transphobia as well.

1.8 Violence faced by transgender persons

Violence is given various definitions in various contexts. For an example, the World Health organization (WHO) defines violence as the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, underdevelopment or deprivation²¹.

The violence faced by transgender persons especially need to be discussed within the framework of gender based violence. Here we should understand that the gender based violence is usually defined as violence against women and girls, and the violence faced by LGBTIQ community is defined as gender based violence only in some specific contexts. However when it comes to transgender persons it is very difficult to define whether all transgender persons are women or not. There are male to female transgender persons who identify themselves as women and there are female to male transgender persons who are biologically female or having gender histories as women/ girls.

Shelah S. Bloom (2008)²² defines gender based violence as the general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society. This broad definition includes transgender persons as persons differing from normative role expectations associated with gender. However it has not accepted the existence of a third gender category. Even though, transgender identified persons are a minority community, they are the worst affected gender category of gender based violence, for extremely deviating from normative role expectations associated with the gender category imposed on them or for choosing their gender identity by themselves.

Integrated Regional Information Networks (IRIN) Humanitarian News and Analysis website identifies 5 types of Sexual and Gender-based violence: (1) Sexual Violence, (2) Physical Violence, (3) Emotional and Psychological Violence, (4) Harmful Traditional Practices and (5) Socio-Economic Violence.

WHO categorizes violence into 3 types based on its perpetrator (1) self-directed violence, (2) interpersonal violence, and (3) collective violence. Self-directed violence refers to violence in which the perpetrator and the victim are the same individual and is subdivided into self-abuse and suicide. Interpersonal violence refers to violence between individuals, and is subdivided into family and intimate partner violence and community violence. The former category includes child maltreatment; intimate partner violence and elder abuse, while the latter is broken down into acquaintance and stranger violence and includes youth violence; assault by strangers; violence related to property crimes; and

20. Women's Support Group, "Not Gonna Take It Lying Down": Experiences of Violence and Discrimination as Told by LBT Persons in Sri Lanka', March 2014

21. WHO, Definition and typology of violence <http://www.who.int/violenceprevention/approach/definition/en/> accessed on November 7, 2014

22. Shelah S. Bloom, 2008. Violence against Women and girls: a compendium of monitoring and evaluation indicators



violence in workplaces and other institutions. Collective violence refers to violence committed by larger groups of individuals and can be subdivided into social, political and economic violence²³.

In this study transgender persons interviewed revealed their life experiences of violence related to all the types of violence coming under both definitions.

2. METHODOLOGY

This is an assessment study conducted using qualitative research methods with the objective of assessing the violence and discrimination faced by transgender persons in Sri Lanka. The interviews were conducted based on two districts: Anuradhapura and Colombo.

Anuradhapura is a historical city and believed to be the first capital in Sri Lanka, currently situated in the north-central province, it is the main urban center for many rural communities. Colombo is the current commercial and administrative capital and a modern city center for many urban communities and migrants from the rural areas. The interviewees were from both rural and urban communities, people from various social, economic, cultural and professional backgrounds.

2.1 Objectives of the research

This study included three major objectives of (1) assessing the level of discrimination and violence faced by transgender persons, (2) understanding how violence and discrimination faced by transgender persons affect their livelihoods with a special focus on socio economic and cultural aspects of violence and discrimination and (3) identifying any existing systems or mechanisms for protection against violence faced by transgender persons in Sri Lanka. In a way, the objectives were kept broader while focusing on discrimination and violence, as it was also expected to document life experiences and narratives of transgender persons on violence and discrimination, while an attempt was made to understand the culture they live by interviewing the key informants.

2.2 Data Collection process

22 in-depth interviews were conducted with 9 Female to male transgender persons and 13 male to female transgender persons on their life experiences on violence and discrimination. A total number of 88 interviews including four focus group discussions were conducted with various key informants and groups such as police officers, lawyers, medical doctors, medical staff, religious leaders, social workers, prison officers, CBO leaders, and LGBTIQ community groups on various topics relating to transgender persons with sensitivity to understand the attitudes towards transgender persons. Four Focus Group discussions were conducted with MTF transgender persons and gay men in Anuradhapura, MTF transgender persons and gay men in Colombo, a group of village women in Anuradhapura, and a group of university students in Colombo.

In addition to this, qualitative data gathered from informal discussions with LGBTIQ community

23.WHO, Definition and typology of violence <http://www.who.int/violenceprevention/approach/definition/en/> accessed on November 7, 2014



members, as well as experiences of researcher and research assistants were documented. Media articles published in newspapers and on the web were also collected.

Snowball sampling method was used in selecting transgender interviewees, while Expert sampling method was used in selecting other interviewees. Community participation is a vital component in snowball sampling method, where the community members engage in contacting the other interviewees. This method was used in interviewing the transgender persons. The other interviewees from police, medical staff, schools, universities, religious leaders and CBO leaders were selected using the Expert sampling method. Expert sampling involves the assembling of a sample of persons with known or demonstrable experience and expertise in some area²⁴.

Maximum efforts were taken to maintain and confirm confidentiality at each step of the research, especially in the case of the transgender persons interviewed. No person outside the LGBTIQ community was hired to conduct interviews or any other documentation work related to the research. Hence, the study can be introduced as a community run research.

In the case of transgender persons, the interviewees were well informed about the study conducted, purposes of the study and a written consent form was signed as an agreement between the researcher and the interviewee. The interviewee was given the right to withdraw from the research at any time, even after finishing the interview. However such a procedure was not followed in the case of other categories such as police, religious leaders etc. Some of the interviews were conducted with homophobic and transphobic persons, which was quite ethically challenging.

A semi structured questionnaire/ interview guide was used in conducting in-depth interviews with the respondents. For example, transgender people were interviewed using a lengthy semi-structured questionnaire guide which included 14 sections: basic details of the interviewee, details on childhood, school, Friends and neighbourhood, higher education, work environment and access to employment, experiences in public places/offices, relationship with family, neighbours, community and public as an adult, ideas on religion, future expectations, enjoyment, emotional needs, gender reassignment surgery/ transition process, sexual and romantic life, protectionary measures and recommendations. A different questionnaire guide was used in the case of police, where they were interviewed on their attitudes towards transgender persons, legal issues and arrests of transgender persons. Questionnaire guides and approximate length of the interviews were different from category to category. The research guide was not a strictly structured questionnaire, so interviewers added the questions which were not included in the questionnaire, as well as they excluded questions depending on the nature of the conversation.

24. <http://www.socialresearchmethods.net/kb/samprnon.php> accessed on 17th November 2014



2.3 Profile of the interviewees

The interviewees were heterogeneous, represented various professional, social and cultural backgrounds. However an equal number of persons from Colombo (51%) and Anuradhapura (49%) were interviewed.

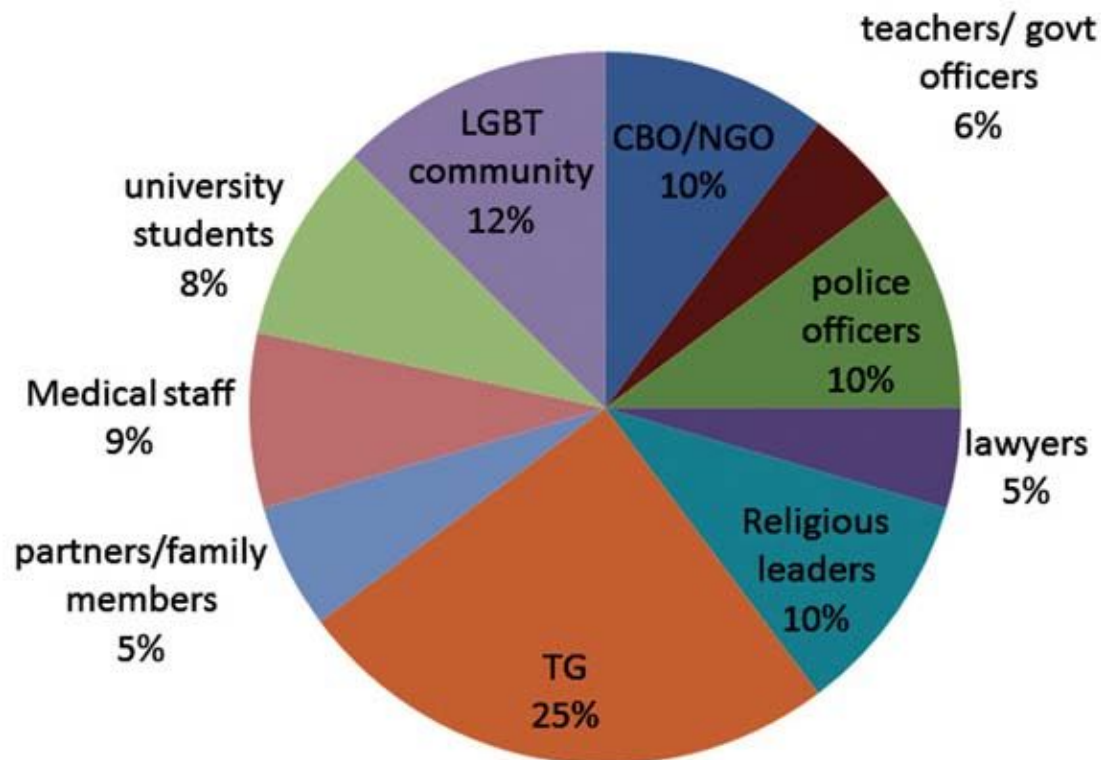


Figure 2.1 Distribution of the sample

The majority of the interviewees were transgender persons (25%), while the second majority were LGBTIQ community members. Police/ prison officers, religious leaders, and CBO/NGO workers were equally represented as 10% each. In addition lawyers, partners or family members of TG persons, medical staff and other government officers were interviewed.



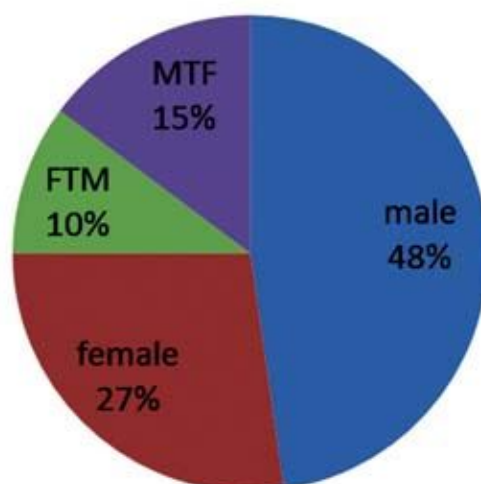


Figure 2.2: Gender distribution of the sample

The majority of the interviewees were male (48%), along with 27% female persons and 15% of MTF transgender persons, and 10% of FTM transgender persons. Apparently there is a gender bias in the sampling. It must be looked into at what caused the gender bias in the sample.

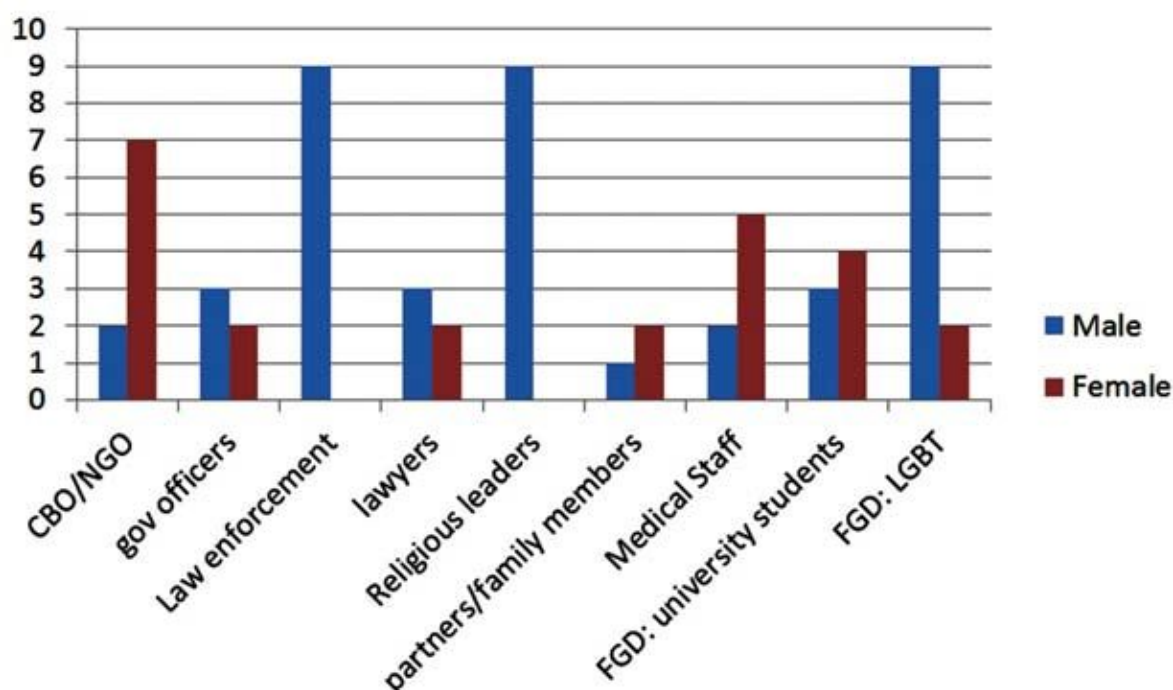


Figure 2.3 Employment distribution of among the males and females interviewed
(Trans people are not included in this graph)



The religious leaders, police and prison officers are all males. The researcher purposely included more women in the category of CBO/NGO workers. When looked at the causes for the number of male persons outnumbering in the LGBTIQ community focus group discussions, it was ascertained that more women have privacy concerns and did not find it convenient to speak about their personal matters in a group. The same issue came with FTM transgender persons who had privacy concerns in participating in the research.

2.4 Challenges and limitations

There were number of challenges in the process of data collection. The data collected was highly confidential; and the interviewees shared very personal life experiences related to their sexuality, close friends, employments and secrets they have been hiding throughout their lives. Even though the interviewees were advised to use a fake name, a substantial number of interviewees used their real names during the interviews. With the extent of the information supplied, it was easier to guess their identity by somebody known to them even in case their name is not published. The consent form before conducting the interviews was used following a suggestion from the transgender community itself.

Also it was not easy to hire outsiders for documenting recorded interviews, or to conduct interviews. All the research assistants hired were members of the LGBTIQ community. However, they also live closeted lives. Hence they were not able to tell their parents or colleagues that they are engaged with such a research. Indirectly that was a protectionary mechanism not expected in the research. Simultaneously the protection of the privacy concerns of research assistants was also necessary.

Many of the interviews were conducted with persons who were selected randomly, even though a proper sampling framework was not used. Obviously we had to conduct interviews with transphobic and homophobic people, attentively listen to them, be careful not to challenge them, and document their homophobic and transphobic statements. Especially in case of the Police it was really challenging. Again it was ethically challenging as well. If the objectives of the research were divulged to the Police, we would not be given permission to conduct interviews. Hence there were a number of risks associated with data collection.



3. RIGHTS OF THE TRANS CHILD

Green (2004) defines transgender childhood as one in which the child unconsciously (at first, and perhaps consciously later) expresses gender characteristics or behaviours that are typically associated with those of the opposite sex to the point of making other people uncomfortable or otherwise acutely aware of the dissonance. He further says that people who have experienced remarks such as “effeminate,” “sissy,” or “queens” for their feminine characteristics, and the women or girls labelled “tomboys” or “butch” for their masculine characteristics, those individuals targeted by such remarks have transgender experiences whether or not they label it so.

3.1 The Trans Child

The rights of transgender children were hardly discussed in the context of Sri Lanka. However the research conducted in other countries also suggest that the majority of children become aware of their gender identity at a very early age²⁵. Hence this research collected in-depth data on childhood memories and experiences of trans-persons interviewed.

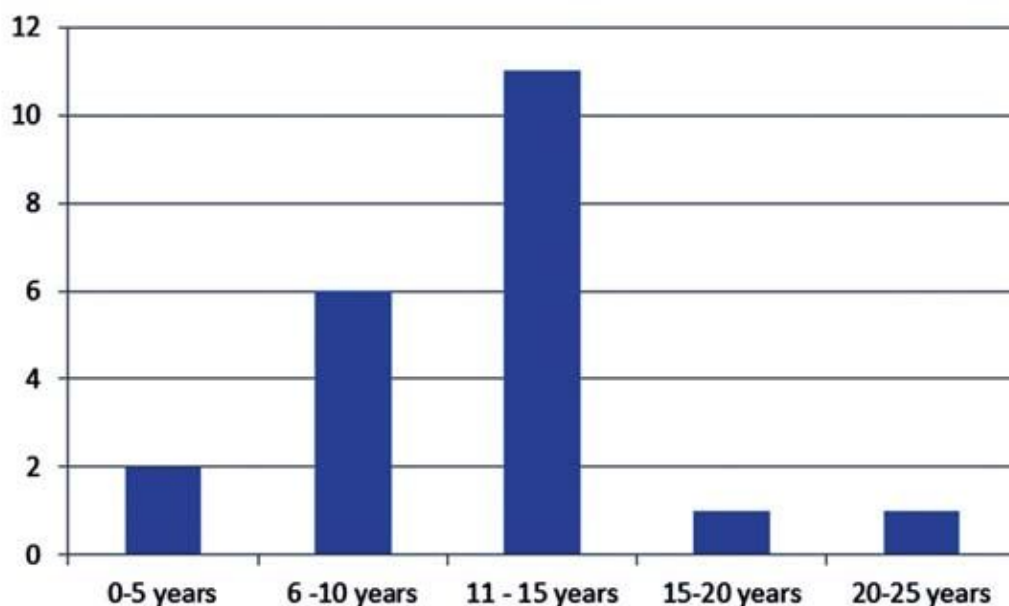


Figure 3.1 Figure: Respondent's Age when they identified themselves as transgender /different from a gender based on their biological sex

Two of the interviewees mentioned that they identified that their gender identities were different from biological sex by the time they were aged around 5 years. Six of the respondents mentioned that they identified their gender identities different from their biological sex between ages 6-10 years. The majority of the respondents (11 persons) mentioned that they identified their gender identities different from biological sex between ages of 11 -15 years. Also, there were two persons who identified themselves as transgender when they were between the ages of 15-25 years. Except one transgender

25. Natacha Kennedy and Mark Hellen. Dec 2010. In Graduate Journal of Social Science, Vol 7 (2) <http://www.gjss.org/sites/default/files/issues/chapters/papers/Journal-07-02--02-Kennedy-Hellen.pdf> accessed on 27th October 2014



person, all other transgender persons included in the sample can be considered as persons who lived their childhoods as trans-children.

Natacha Kennedy and Mark Hellen²⁶ argue that trans-children's concealment and suppression of identity for such a long period can lead to problems. It should be highlighted here that three interviewees interviewed in this study mentioned that they have attempted suicide in their childhood. In one case it was just to force his mother to buy him a pair of slippers.

3.1.1 Preference for clothes of other gender

When children are small, it is a usual thing in Sri Lanka to dress them in male clothes such as T-shirts shorts or trousers for both male and female children. Though small girls are dressed with T-shirts and shorts, it is rarely that a boy is dressed with a frock/dress in the current context.

A MTF trans-person said even though she was not dressed with frocks/dresses at a small age, she was dressed up with the caps with long braids of hair, at the age of three by her parents²⁷.

Many trans-children have preferred clothes of the opposite sex since their early childhood. However understanding the culture of the country, there are differences between MTF and FTM trans-children, in relation to expression of their gender through clothing.

Amongst MTF children, it was an occasional or secret practice to wear mothers or sister's clothes or to be in a performing space cross-dressed. Female clothes were never bought for them, and wearing female clothes was never encouraged. One MTF said *"When I am at home, secretly I wear Sarees, frocks and look at myself"*²⁸. Another MTF said *"Since the early days, I thought: 'I am a girl.' I always liked girls' stuff such as lipstick, nail polish and to wear my mother's Sarees"*²⁹.

Other space used by MTF trans-children to be cross-dressed is in performing activities. Male to Female cross-dressing has its historical origins in Sri Lankan history when it comes to performing spaces such as plays etc. (see chapter 9: transgender history, culture and religions). An MTF transgender interviewee enthusiastically remembered how she used to dance at her home wearing her sister's clothes. She was allowed to continue this until she passed up to grade one or two (age: 7-8 years), and until her mother returned from a foreign country. *"Those things are girls stuff. A boy shouldn't do such things." The mother had imposed rules stopping her dancing with girl's clothes. However later, mother has bought her several dolls*³⁰

Another MTF transgender persons said; *"No other stuff. If there is an event in school, I was asked to dress like a girl. There are such invitations. However my parents (ammala) never liked it."*³¹ Especially in Boys' schools, many feminine looking children were encouraged to act as female characters in plays and dancing items. This was one space used by mainly MTF trans-children.

Another MTF person has won the prize for best actress at a school drama festival. Recollecting her memories, she said *"I acted as an old woman's character, and was awarded as the best actress in the School Drama Festival. Everybody who saw me said that it was a pretty little girl on the stage. The board of judges specially appreciated me."*³²

26. Ibid

27. 8CTG MTF

28. 3ATG MTF

29. 2CTG MTF

30. 1CTG MTF

31. 2ATG MTF

32. 5ATG FTM



When it comes to FTM children, they did not need a special performing space for cross-dressing. Usually, they were dressed up with male clothes at a very small age. Only when they grew older were they forced to wear female clothes. One of the FTMs said, *"I always wore and always requested shorts from parents. They also bought it for me. So I had no worries about it. I liked it. However later, they didn't like me to wear T-shirts etc. I was marginalized, as I was not listening to them. But I never stopped wearing male clothes despite how much they did not like it."*³³ In the case of this FTM, wearing male clothes goes beyond clothes, and it becomes a sort of activism against the gender norms forcefully enforced on the child.

This idea is more explicitly expressed in the following statement by another FTM transgender person, where the small girl child who is four years old, starts a continuous struggle and a protest against her father's conventional/ patriarchal ideas on what a girl should wear, and she ends up gaining her victory. *"That wasn't a time that girls wore shorts. So, I never wanted to wear a frock. I started a protest since I was four or four and a half years old. Father did not buy me male clothes. I had only one pair of shorts to wear for everything: whether it is a wedding or a funeral, or another event, or to bed. I wore same pair of shorts to the Montessori. Father refused washing it. So I started washing it myself. When it was torn, I stitched it myself. Mother was abroad at the time. Then it started look very old, threadbare with lot of patches. Father was feeling ashamed. Finally I won the battle. Father had to buy me few pairs of shorts"*³⁴. In this specific case, the Montessori teacher had not rigidly imposed gender rules on clothing there.

However, this is different from another transgender person's experience. He dislikes and refuses attending school because of the clothes he had to wear. Even though he is not successful, this small child challenges a form of institutional transphobia: where rigid rules on clothing based on gender are imposed. *"It was a rule to wear frocks to the school/ Montessori. As soon as I returned from school, I would undress and throw the frock away. In the morning I cry saying that I can't attend school. It's because of the clothes I have to wear. This continued until I came to grade one and two. Later I (admitted that I) had to wear the frock even though I didn't like it"*³⁵. In this specific case, it is evident that the child's access to education was limited, due to the strict rules imposed on clothing. As far as the child is worrying about his clothing always, he might not be able to pay his full attention to his educational activities.

Another FTM transgender person mentioned that he used to wear sarongs, instead of frocks or skirts. *"I had a brother. He fights with me saying that I am wearing his sarong. So father used to buy two sarongs for both of us"*³⁶. Differing from MTF trans-children, FTM trans-children were able to wear clothes they preferred in their daily lives, even though they had to continuously struggle with the adults to continue it.

3.1.2 Trans Children's play activities

Play activities of trans-gender children mostly represented the opposite of the binary gender norms. I found many FTM transgender children who did not like dolls, wearing Sarees, or playing 'rice cooking' etc. Instead they liked playing cricket, riding bicycles, climbing trees, fighting with boys etc. The majority of MTF transgender children interviewed liked dolls, playing 'rice cooking' etc.

"I never liked to play cooking rice etc. I needed to do things done by boys like playing with a ball etc. I was closer to my brother. We spoke, travelled, and wore clothes together with each other. We used to

33. 9CTGFTM

34. 6CTGFTM

35. 3KTGFTM

36. 4KTGFTM



*climb trees, ride bicycles etc. I almost did nothing my sister did.*³⁷ Not only was he interested in boys' play activities, it is interesting to note that his best playmate was his brother instead of his sister.

The opposite of this had happened in case of a MTF transgender person in her childhood. *"When I was aged around 5 years, I used to play with akka (elder sister) and nangi (younger sister). I was with girls, and I hate boys. After coming from school, I stay at home. Mother does not let me go to play in the playground. I play at home, usually 'cooking rice' etc. I was used to washing cooking pots at the age of 5 years*³⁸ It is interesting to note that when her mother asks her not to go to the playground, she accepts it and does not break the rule. She stays at home and helps her mother by doing domestic work and enjoys that life.

The toys for MTF were mainly dolls, while they were toy guns, cars, and soldiers for FTM children.

*"When I was small my toys were cars, soldiers etc. When we go to Carnivals, I usually ask for toy-guns. So they buy them for me."*³⁹ (FTM)

*"During childhood, I played with girls. We do 'cooking rice', bathing dolls etc. I never went to the side where boys were playing with balls."*⁴⁰ (MTF)

Many MTF children were interested about performing different things. They usually chose the female role models. For example, one MTF person mentioned - *"Still, my favorite actress is Madhuri Dixith. So I always tried to dance like her, sing like her, behave like her"*⁴¹. Another MTF person said, *"We cook 'Chunchiri Rice' with the pot set. I wear frocks with the Akkas (elder girls) and I have even beaten some elder girls demanding that I will be teacher or Akka (elder girl) saying you have to be nangi (younger girl) etc."*⁴²

Some play activities in childhood were secret acts expressing sexuality and gender of the interviewees. One of the FTM transgender persons remembering his childhood said; *"If parents (ammala) are not at the home, I draw a beard on my face. I make a penis with clothes, and keep it to my underwear and look at myself. When I go to toilet I try to piss while standing up."*⁴³ Another MTF transgender person also mentioned about a somewhat similar act even though quite different from the latter. *"I look at myself in the mirror and watch my movements like dancing for example. I think about A/L and O/L aiyas (senior boys) while touching my nipples. I enjoy that feeling."*⁴⁴ While the FTM child romanticizes of having a penis and a beard, the MTF child romanticizes of having breasts, by touching her nipples.

However it should be also noted that all the transgender persons were not limited to this narrow scope of gender expressions in their childhood. A MTF cross-dresser who later identified herself as a trans-person said that she had spent her childhood according to the conventional gender norms existing in society: in a way a boy should behave.

3.2 Discrimination from the family

In the case of 8C-TG MTF, her suicide attempt was followed by the father's assault on her and his demand for her not to associate with the only transgender friend she had. Speaking about the reasons she said, *"My friend was used to going in three-wheelers to have sex with boys. So the family, especially*

37. 7CTGFTM

38. 3CTG MTF

39. 1KTG MTF

40. 2CTG MTF

41. 1CTG MTF

42. 5CTG MTF

43. 1KTG MTF

44. 7CTG MTF



my father was against my friendship with her. There was a time my father hated even seeing me.⁴⁵ However after she tried suicide, her mother intervened and settled the issue by temporarily sending her away from the home to a relative's house for around a period of one month.

Further speaking about the hostile relationship with her father she described how her father used to throw away all her cosmetics when he returned from a foreign country - *"he puts all the creams into the sink, and opens the tap. When my father goes back (to the job in a foreign country), I collect money and buy them again."*

"I used to do domestic work such as washing clothes and cooking at home. However I don't do any of these things when my father comes home. I just stay inside the house. One day my father wanted me to help him in constructing a wall. He forced me to do things which I can't do: to carry rocks with a wheel barrow, to do wood-cutting, to cut rubber trees. Finally there were callouses on my hand. In the night, my grandmother saw how I was crying inside the room. I went to see my friend as I could not bear all these things." When she went to see her friend to discuss the difficulties she has faced her father assaulted her thinking that she was behaving in this manner due to the bad influence of that friend. That was the reason she tried to commit suicide.

She also described an experience where her father had forced her to do bodily exercises as a conversion therapy to behave like a boy. *"My father said my body needs to change to be a boy's body. Early each morning my father travels in the three-wheeler while I have to run behind him. He takes me such long distances. Sometimes I stop, panting, and sweating. Even when we return home, I have to run. After a few hours, my muscles start aching. So my father brings mutton and eggs for me to eat⁴⁶."*

Another MTF transgender person mentioned how she was chased away from the family when she was aged around 12-13 years due to her gender identity. *"One of my ayiyas (brothers) poisoned the mind of my mother. He said things like 'You don't have any knowledge about HIV. We don't know what will happen if this one continues to have sex with boys etc'. So first I was chased away from home. I started staying in friends' places. Then my mother again asked me to return home. I said, I won't come home if you don't allow me to live the way I like. With that condition I came home. However soon I again had issues with my brother, and decided to leave home. Since then, I never went home again⁴⁷."*

She had been experiencing continuous physical violence from her brother for a longer time, and says *"If I danced or played with girls and did not start doing school homework by 5.30 pm, he used to assault me with belts until my back was severely wounded⁴⁸".* The reasons for the assaults were usually for playing girls' games. Even when she cries, her toys were given to girls in the neighbourhood to discourage her not to do girls' stuff. Ultimately her decision to leave the home and to start work as a child labourer in a tea factory, as well as a child sex worker on the streets were influenced by the violence and discrimination she faced within her own parental home.

The case of 6C-TGFTM (previously described in the section 3.1.1 preference for clothes of other gender) who had a continuous struggle with his father who decided not to buy male clothes for him, could be considered a child rights violation; where the child has to wear the same clothes every day until the father feels ashamed of it.

In the case of 3A- TGMTF; she has faced double discrimination due to 2 facts - that she was an orphaned child and a transgender. She says, *" Sometimes, others eat while I go hungry. If I started ironing clothes, they switch off the electricity. If I go to bathe, they hide the soap. If a problem arose in the family, the reason is always me."* She has tried to commit suicide twice as a child, and once

45. 8CTGMTF

46. 8C-TGMTF

47. 5C-TGMTF

48. ibid



as an adult due to the discrimination she faced.

The family had actually adopted this child but when they learned she was transgender, they did not want to take care of her. She says, *"Sometimes in secret from family members, I shave my eyebrows and darken down my eyes with charcoal. They (family members) scold me saying; 'You devil. You have got such a valuable male life, but what the hell are you doing? Please give up such Nadagams (dramas)!'"*⁴⁹

According to Buddhist beliefs in Sri Lanka, being born a male human being is an extremely fortunate situation. It is said that only a male human being is able to attain Buddhahood. In this context, the child's male to female behaviour was found as an abnormal behaviour which should be punished with severe forms of discrimination.

3.3 Experiences of transphobia in schools

Many FTM transgender children have experienced harassments from teachers, while MTF transgender children have experienced more harassments from fellow students. In the meantime it should be noted that MTF children were neither free from transphobia by teachers as some of MTF children were sexually abused by teachers.

Some of the MTF transgender persons have experienced insulting comments from fellow students due to their gender identity and one student had discontinued her school education due to such insulting comments. She said, *"I went only to grade 6. All the boys were making jokes at me as I was playing with girls. I never liked playing with boys. So, I stopped going to school."*⁵⁰

Another interviewee who had been very depressed by such insults described her school days - *"They call me kella (girl), nangi (young sister), akka (elder sister), genu lamaya (girl child) etc. Several times my parents and siblings have come and complained to the teachers. Even at the meetings, teachers have advised other students not to call me such names. So they stopped doing it at school, but continued doing it on the roads even in front of other people. One day after taking Pansil, I went to a teacher and cried saying 'I won't go home. I will hang myself, or I will drink kerosene and commit suicide. I can't listen to these things everyday'"*⁵¹. She further mentioned that she started avoiding main roads to escape from these insults. In the meantime MTF children have become victims of a number of sexual abuses (see next section).

5C-TGMTF, a Tamil MTF transgender person said as a child, she was not told such words, or did not face harassments from fellow children as she fought back and complained to the teachers. *"There were two other students who came from Jaffna. I don't know whether they are timid like that because they are from rural area. The other students call them 'pombalamadiri (girlish one in Tamil)' or 'geni (woman in Sinhala)', or some students pinch their backside on sport meet days. I sometimes asked from other children not to do such things to those children and even I have complained to the principal on behalf of them"*

However the situation of FTM children is quite different from this context as they had experienced less stigma and discrimination at younger age, and more severe forms of institutional transphobia at schools, and psychological, verbal harassments by teachers when they grew older.

49. 3A-TGMTF

50. 3C-TGMTF

51. Five precepts for lay Buddhists: refraining from killing, stealing, sexual misbehaviour, lying, taking alcohol and drugs

52. 4A-TGMTF



7C-TGFTM said, *"Since those days, I always behaved like a boy. There were several other students in the school who behaved similarly to me. So there were no problems (at smaller ages). However when aged around 13 or 14 years, teachers started questioning 'why are you like this? Don't stay like that.' Sometimes they ask me to come and advise me not to do this thing and that thing... I usually listen to them. That's all. I never cared about them, and stayed the same as I like"*⁵³

1K-TGFTM's situations in the school was quite different. He says since it was a convent the rules of the school were quite strict. And since he was playing cricket and behaving like a boy, many girls started getting attracted towards him. He says; *"so teachers started to hate us."* They became a usual target for the teachers to blame. *"Thamuse (you - a disrespectful word) why have you cut your hair short, like a boy? Why don't you wear earrings? You come wearing big watches and jackets. You do that thing... this thing..."* He says such words were the usual comments of the teachers. When teachers got to know of a love affair between him and another girl, parents were called to the school and details were informed. Also the girl who was in the affair with him was dismissed from the house captain position, and the privacy of both of them was revealed to the entire school.

2K-TGFTM also confirmed similar difficulties in the school she studied. She said; *"I have listened to all the dirty sayings and the blame especially from teachers. At last they say to wear a bow to be recognized as a girl. They think we initiate and attract/recruit other students (into lesbian relationships). Sometimes we have stopped going to school or cut the period which teachers who mostly blame us are teaching. Again we had been blamed, and punished for such things. If two people are talking continuously, they think there is a (lesbian) relationship."*

6C-TGFTM also was falsely blamed by a teacher in the school discipline committee for having an affair with a girl, just because they have eaten food together and spoken closely while travelling to another school for a sports tournament. When a masculine girl child associates with a feminine girl child closely, their friendship has been usually misinterpreted as a sexual/romantic affair. The teacher has asked him to apologize publicly regarding the offence 6C-TGFTM has done. However 6C-TGFTM had refused to apologize saying that he has not committed any offence. Then the teacher has threatened him, that he will not be offered a character certificate due to this reason. Later, when he participated in a school drama, that teacher has tried to remove him from it. However when it was unsuccessful due to strong opposition from the drama teacher, the teacher concerned had been successful in not issuing a certificate to 6C-TGFTM when the drama he took part in was awarded third place at an inter-school drama competition.

3C-TGFTM revealed another experience of being blamed by a teacher regarding his gender identity in public when he had just enrolled in a new school and was found fault with although it was not considered a fault at the previous school. She said *"in the old school, we were allowed to sew a secret pocket in the uniform to protect our money from stealing. So I sewed a secret pocket in the uniform of new school also, as I could not leave money in the school bag when I leave the classroom. That was noticed by the section head teacher. When the entire A/L section was watching she blamed me for my behaviour, the way I walk, how I have cut my hair taking that pocket as the reason"*⁵⁴. The teacher seems to be a transphobic person, who wanted to blame the FTM child for his masculinity. Finding a secret pocket in the school uniform does not seem to be the true reason for such blame, but the teacher finds an opportunity to express her transphobia by finding this to fault.

1K-TGMTF suggested that school teachers should be made aware on the issues of transgender children.. *"I think it is better if school teachers are aware about these things (issues concerning trans-children). Then teachers can understand the situation of the child from the childhood. When we were at school, our teachers hated us as much as possible. They tried to stigmatize us. That's not good."*

53. 7C-TGFTM

54. 6C-TGFTM



It only breaks (weakens) our personality further.” Also it is pathetic to mention that many schools in Sri Lanka maintain rigid rules on clothing based on conventional norms of gender. Not only the students, in many cases, even the mothers of children are not allowed to wear a trouser and enter the school premises. In many schools a homophobic and transphobic culture is maintained, and transgender children become easy victims of such a culture.

3.4 Childhood sexual abuse

Out of the 13 male to female transgender (MTF) persons interviewed, 9 persons had experienced child sexual abuse in their childhood. In case of 7 female to male transgender (FTM) persons interviewed, only one person had experienced child sexual abuse in his childhood.

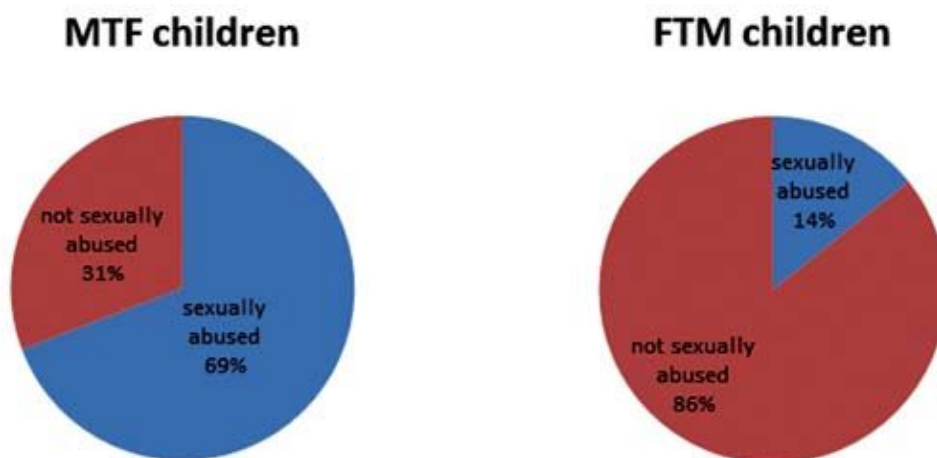


Figure 3.2: Sexual abuses of Children and their gender

Except for a single case experienced by an FTM transgender person, all the offenders of child sexual abuse were male. The offenders included religious leaders, school teachers, army soldiers, relatives of the child, and also older school students. Only in a single case was an outsider to the child involved in actually committing sexual abuse of the child.

3.4.1 Experiences of child sexual abuse

Many cases of child sexual abuse were with the consent of the child. Many interviewees have loved the abuser in return, because of the emotional caring they received.

For an example, 4A-TG MTF (MTF) coming from an impoverished family background, and possibly experiencing lack of parental attention as the number of children in the family was 10, remembers her memory about the abuser: the Buddhist monk in the village temple in a passionate manner.

“When I was around age nine, there was a Buddhist monk in the village temple. When I went to temple with the neighbours, Hamuduruwo (monk) came very close to me, stroked my head and said ‘son, you come here again, it doesn’t matter even if you come alone.’ So one day, I went there. Hamuduruwo made tea and served me. The time was around 6.30 pm. When Hamuduruwo asked me to stay the night at the temple, I said my mother will scold me. Hamuduruwo said ‘don’t worry, I’ll send a message to your home.’ That was the start of it. Hamuduruwo never forced me. I had a special liking to stay with Hamuduruwo



like that. I was like a girl even when I was aged nine or ten years old. I assume that influenced Hamuduruwo to bend into that.⁵⁵

She does not call the village monk an abuser and justifies the abuser saying that the abuse happened because of her feminine behaviour.

3A-TGMTF (MTF) had first met his lover/abuser while he was by the road nearby her home. The lover/abuser came on a motorbike and had asked a few questions from her. Later, he started following her and continued to offer gifts in secret to her sisters. So one day, she voluntarily goes to spend the night with the guy at a shop room owned by the guy.

"I was studying in grade 8 then. He had opened a shop after being released from the prison (imprisoned for raping a foreign woman and a man). He said that he must meet me in the night. So, I promised to come to his place in the night secretly. When I went, he was drunk. I was also given arrack. When I refused to drink the arrack, he mixed it with Coca-Cola and gave it to me. Then he raped me. After having anal sex, I could not even stand up, nor could I walk. There was blood in the shorts I wore. I started crying, and said 'I can't go home in this manner'. However he took me on his motorbike and dropped me by my home. I had lot of difficulties. I didn't go out for two, three weeks. Sometimes if I sit on a chair, there was blood on the chair. Once, my mother asked why there is blood in my Sarong. I said that I had a boil in my leg, now it has become a wound as I scratched it. My mother asked me to put some medicine on it". Even though she was blaming his lover/abuser in her mind, she also protects him even after her anus was severely wounded after being raped by him. Also she knew that her lover/abuser is not a good person, but a convicted criminal. It seems that she was not given adequate attention by her parents, and possibly there was a lack of parental love as well. For whatever reason, she had been strongly attached to the guy ('I felt that I could not live without him'), until she finds out the guy is a married person.

In case of 5C-TGMTF, the lover was a trishaw driver in the neighbourhood. Since she was aged around 12, they have had thigh sex in the Trishaw Park.

But this is different from how 5A-TGMTF (MTF transgender person) remembers about being abused by the caretakers of Children's home: the Christian religious priests.

"In the morning, I always had to find the trouser which I wore last night. I don't know what they do and go. I was in doubt whether I slept with or without the trouser⁵⁶". 5A-TGMTF does not have any communication with the abuser, except finding himself naked in the morning. Also C's situation as an orphaned child living in a Children's home is quite different from others who live in their parental homes. She further continues to be a victim of child abuse even within her adopted family. "Many relatives including my father's sons, father's cousins' sons used me to satisfy their pleasures, sometimes in front of my father's very eyes".

Two interviewees (MTF) said that they had sex and love affairs with (a) an army soldier who was a friend of her elder brother, (b) an army deserter who was a relative of their family. In both incidents, they have slept in the same bed and the seducer has started touching the genitals while she was asleep.

Also one of the MTF transgender person mentioned that sexual abuse happened from her own brother, when she was aged around 11 years (grade 5).

55. 4ATGMTF

56. 5ATGMTF



3.4.2 Sexual abuses in school

Three of the interviewees (MTF) mentioned having sex with students in the school (a) being kissed in the bathroom after cross dressing for a drama event held in school (b) having thigh sex with another senior student (c) having oral sex in the school toilet. Another two interviewees (MTF) mentioned two incidents of having sex with teachers.

On the first occasion, teacher had chosen all feminine looking boys for a special class after school and one by one they were taken to the staff room for a special session each day. *"When touched, we also have feelings. So we let teacher to do whatever things he liked"*⁵⁷ said 2C-TG MTF.

In the second instance, the school principal informed her to stay after school for a special class. The 13 years old child went home, and returned to school around 2.30 pm after having lunch at home. When she arrived at school, she found no other students to be seen. Around 3 pm the principal came. She says *"I asked 'Sir, where are the other children?', 'He said; No, I wanted to meet you specially. That's why I asked you to come. Then he invited me to his room. He closed the door and opened a window. Then he offered me some biscuits with tea. 'I asked you to come here as I wanted to know several things. I don't know whether you will like them', I asked 'Sir, why did you ask so?', 'he said; as your attitudes are so different, a big thing happened in my mind', 'will you tell these things with your parents?' I said 'No, I won't. Sir, you can tell anything'. After around 20 minute's discussion, I had sex with the principal"*⁵⁸

The principal's approach, and when the reasons she mentions in the above quote are considered, it is obvious that the feminine behaviour of the child has attracted him. In the former, the teacher has consciously selected feminine looking and acting children in the class as he considered them weak children. The strategies used by both abusers are similar, even though the number of children abused in the first instance is higher in number.

3.4.3 Vulnerability of transgender children to child sexual abuse

A majority of the child sexual abuse victims were feminine boys or male to female transgender (MTF) persons. It suggests to us that the feminine boys or male to female transgender persons are more vulnerable to sexual abuse, than the masculine girls.

*"Yes, I have such experiences. Even though I wore boy's clothes and had a short haircut, my behaviour was different, and so they knew it. That 'G' uncle's son and some other uncles have come for such things, and I have even gone (voluntarily)."*⁵⁹

Again, it seemed that the girl children become more protected against sexual abuse when they are masculine. When researcher asked about childhood sexual abuse from one of the female to male (FTM) transgender persons, he said *"No... No... I didn't have such problems. Those days even boys were afraid of me... so no one comes for such things (laughing)"*⁶⁰.

Also due to gender norms existing in the country, it is usual that female children receive more attention and protection from the parents in comparison with male children. When researcher asked about the childhood sexual abuse from an FTM transgender person, he replied *"I don't have such a memory, as (FTM) transgender persons, he said "No.. No.. I didn't have such problems. Those days even boys were afraid of me... so no one comes for such things (laughing)"*⁶⁰.

57. 2CTG MTF

58. 4ATG MTF

59. 8CTGFTM note- this interview was conducted in front of her grand mother

60. 3KTGFTM



Also due to gender norms existing in the country, it is usual that female children receive more attention and protection from the parents in comparison with male children. When researcher asked about the childhood sexual abuse from an FTM transgender person, he replied *"I don't have such a memory, as I was always with my father. I always sit in a place where my father can see me. I had the idea that my father is my only protector. I remember, some Aunties who were working with my father used to say 'we will take your father and go'. So in a way, I wanted to protect my father as these people might kidnap him. With that, I also received protection"*⁶¹.

There were some children, who narrowly escaped from child sexual abuse by expressing their strong unwillingness by shouting, refusing, fighting etc. An MTF transgender person who used to live in a shanty area in her childhood said; *"I was asked to have sex by a boy attached to an underworld gang, when I was walking on the road. I refused it. Then they assaulted me saying that I asked them to have sex with me. I told the underworld gang leader, that I was not the person who asked for sex, but them. The Gang leader was a good man (he saved me.)"*⁶²

Another MTF transgender person mentioning about her childhood said, *"Some people in the village tried to abduct me, several times. Each time I shouted in fear. Then they left me"*⁶³

Not only MTF transgender persons, but also FTM transgender persons have such experiences. *"One of my uncles, who was a good English teacher, touched my leg, when I went asking his help to translate something. I felt that this is not a usual touch"*⁶⁴.

*"My father's elder brother's son who was more than ten years older than me, showed me his penis and asked me to take it into my mouth. I was only 9-10 years old then. I said 'I can't do that, as you might urinate in my mouth."*⁶⁵ Explaining further he (then she) mentioned, even though he did not understand the gravity of it at the moment it happened, he later understood what a disgusting act it is. However he did not want to complain to his parents, assuming it might lead to a problem between the families.

3.5 Other Remarks

MTF children were more likely to explore sexual experiences than the FTM children. In case of FTM children, only one person revealed he had a sexual experience in his childhood, whereas 9 out of 13 MTF children revealed such experiences.

Two MTF children's hair were cut by the gang members in the area in order to correct them into being men. One child had tried suicide after her hair was cut short for the third time by the gang members.

A school teacher in Colombo reported an incident in which a masculine looking girl child had an affair with another girl in the school, and the school has called the parents to the school to inform them about the child's behaviour. Later the child had failed her Ordinary Level examination even though it cannot be exactly said whether pressure at school affected her education.

The same teacher mentioned a suicide committed by a masculine looking girl child, when her parents had changed her school after learning of her affair with another school girl.

61. 6CTGFTM

62. 3CTGMTF

63. 5CTGFTM

64. 2KTGFTM

65. 1KTGFTM



Another teacher said he personally saw a feminine looking boy child being sexually harassed by his fellow school students, while they were playing with water with each other. A Vice Principal in a School in Vavuniya said that other students complained to him about a student having sex with the police and army soldiers in their barracks. When asked, the student has accepted that he had sex with them with his consent. Later that student has dropped out from the school and had gone to work at a textile shop. Still, the villagers call him 'ponnaya'⁶⁶ as he was having sex with army soldiers in a nearby army camp. There are several studies^{67,68} on how security forces have committed sexual abuses against girl children, but there is lack of research into sexual abuses committed to male children by the armed forces.

It is vital to address the rights of the trans-child in school and family settings, as well as in the communities and equal attention should be paid to protect children from sexual abuse without a gender bias. School teachers and parents should be sensitized on the rights of trans-children in order to refrain from pushing their gender stereotyped values into the minds of the children. Broadening the discussion on gender based discrimination beyond the binary gender categories at community level is very important. Protecting trans-children from stigma and discrimination is not only limited to the LGBTIQ rights perspective, but it also helps in protecting children from sexual abuse, securing their right to education, encouraging personality development of children and giving children happy childhoods in general. Prolonged suppression of identities in childhood could lead to complex psycho-social issues which could be continued in adulthood.

66. A derogatory term for a homosexual or a transgender person

67. Wood, E. J. (2009). Armed groups and sexual violence: when is wartime rape rare?. *Politics & Society*, 37(1), 131-161.

67. Human Rights Watch (2013). "We Will Teach You a Lesson" Sexual Violence against Tamils by Sri Lankan Security Forces.

68. Human Rights Watch. http://www.hrw.org/sites/default/files/reports/srilanka0213webwcover_0.pdf



4. ISSUES WITH FAMILY

Four parents and two partners of transgender interviewees were interviewed. In addition all 22 transgender persons were interviewed on their experiences with family. Since much information relating to childhood was covered in a previous chapter, this chapter will only cover the issues with family as adults.

4.1 Forced into heterosexual marriages

Seven persons out of the 22 interviewees mentioned that they were forced into heterosexual marriage by their family members. Three of them were already married to members of the opposite sex.

4A-TGMTF mentioned how she was forced into a marriage with a biologically opposite partner by family members. *"They got to know I am like this. So they decided 'let's arrange a marriage for this one soon'. 'After the marriage wherever he goes, he will definitely come home'. I strongly said 'I won't get married'. At the time I was around 29 years of age. Then my mother shouted at me and said 'we will chase you away from home, don't think we don't know the wrong things you do. We know everything. Even your brothers know'. However in case of 3A-TGMTF she says she got married to a biologically opposite sex partner due to both reasons of getting societal approval and family pressure. She says "after the marriage, people were good to us. When a man is not married, he gets ignored. Now they call me 'Malli' even though I am in such a situation."* In case of 2G-TGFTM, the family has given him in marriage at the age of 16 years to a man aged around 38 years. They spent only a single day together. He refused living with him (husband) and later they got divorced. A few years later, again he had eloped with another young man, and lived together with him for another two years, until he understood such a marriage was not appropriate for him.

There were another four persons who mentioned that they were forced into marriages with opposite sex members. 3C-TGMTF said the family tried to cut her long hair short, to make her into 'a man' and to get her married to a woman. 3K-TGFTM also said he faced issues with regards to his short hair at the marriageable age. *"Why do you wear your hair like this? Why do you cut your hair? I answered such questions with much difficulty. Then relatives started asking, are you married? Why don't you marry? When I answered them saying that I don't like to get married, then they ask 'who will take care of you when you are old?'"*

2A-TGMTF also said that her family members blamed her for not marrying. Similar to 3K-TGFTM, he was also asked to get married since there will be nobody to take care of him at his old age. *"When parents die, brothers will not look after me. So I was asked, to have a married life, and to have children. (I said to them) I don't like to get married. I will live as usual and will do some religious activities,"* she had said.

7A-TGFTM said that he is planning to go abroad since family pressure to enter into marriage is increasing. 6A-TGFTM also having faced pressure to enter into a marriage from relatives outside the family said that he is planning to enter the Buddhist order when his mother dies. *"I won't marry. I will become a Buddhist monk. It's no use of getting married to a woman, just to show off to society. (People will say) I will be selling my wife to persons next door. Actually people know, I am doing 'subject' (homosexuality), and am a 'ponnaya'⁶⁹. Then they will look strangely at my wife also. I think it is better to live single, than living such a life. My brother's children are there. If I can't stay with them, I will go to a forest monastery and become a Buddhist monk."* He feels getting into a marriage with an opposite sex member will not only be useless, but also worsen his vulnerability to discrimination and abuse. Further he

69. A derogatory term for male homosexuals or MTF transgender persons or person with no self-confidence



believes in three layers for believes in three layers for his protection: 1) his mother 2) brother's children 3) Buddhist order. The primary option for protection is the mother. He even said that it is better he die before his mother's death. He only goes for the second option, if he fails with the primary option. If he lost the second option of living with his brother's children, the last resort he chooses is being a Buddhist monk in a forest monastery. It is very interesting to note why he chooses a forest monastery instead of a Buddhist temple in a village. It seems that he feels unsafe in becoming a Buddhist monk in an environment where he has to keep relationships with the public.

4.2. Exclusion from family

Transgender persons have experienced exclusion from family mainly including being chased away, psychological, verbal, physical and sexual abuse by family members as well as exclusion from social spaces of family such as weddings, funerals, etc.

4.2.1 Being chased away from family

1C-TGMTF was expelled from her family when her parents learned that she appeared for a television programme to tell her story. She said; *"The worst harassment I faced was being expelled from the family. It was that television programme incident. They (television) said the programme will be telecasted covering my face. However that did not happen. My parents, relatives and neighbours saw that programme and started questioning me. So my parents asked me to leave home. That's how I left home."* In another case, 5C-TGMTF was chased away from family at the age of 14 years⁷⁰.

In some cases they were threatened to be expelled from the family, if they did not act according to the wishes of the parents or family members. In 4A-TGMTF's case, the family forced her into a heterosexual marriage. *"My mother shouted at me and said 'we will chase you away from home, don't think we don't know the wrong things you do. We know everything. Even your brothers know.'" Here she is threatened either to get married or otherwise to choose to be expelled from the family.*

5A-TGMTF revealed how she was beaten and asked to leave home as soon as her adopted father's funeral finished, and how she tried to commit suicide. *"I came from Colombo to participate in my father's funeral. I bore all the expenses of the funeral. As soon as the rituals of the funeral were over my brother started beating me. I don't know the reason. Mother shouted at me "go away from home". I jumped into the well. It was neighbours who saved me," she said.*

However in some cases, they have self-excluded from the family themselves because of the discrimination they faced at family settings as well as due to internalized transphobia.

7A-TGMTF expects to migrate due to family pressure she has faced regarding marriage.

4C-TGMTF said *"When I was an MSM ⁷¹ (before gender transition process), I did not go home. Those days, I had grown my hair and was wearing earrings. Both my family and neighbours did not see me as a woman, but a 'ponnaya'⁷². It's shameful for them".* Here she uses the derogatory term 'ponnaya' to introduce her gender identity, and continues to accept widespread transphobia by herself. However her decision of not visiting home assuming that she brings shame on the family is not solely due to internal transphobia, but also it is affected by the responses from family members as well as from the neighbours.

70. See chapter rights of trans-child for more details

71. Men who have sex with men

72. Derogatory term for effeminate homosexual man



In many cases family members or other relatives did not visit the places transgender persons lived, even though transgender persons visited others' houses. They experienced a sense of ignorance towards them by family members and other relatives. In the case of 4C-TGMTF, even after the gender transition process, she does not frequently visit home; she usually travels home by a three wheeler thinking if she was seen by the neighbours it would be shame on her akka (elder sister)'s children.

4.2.2 Exclusion from family events

Exclusion from family was again noticed in the case of family parties and events. 5C-TGMTF said there were times which she cried alone in bed when she was not invited for family parties. 1C-TGMTF also said that she was ignored when invitations were given to the family parties. *"Everybody started excluding me from family parties and events. After understanding it, even though they did sometimes invite me, I stopped going to such places."*

Some others also mentioned that they avoided participating at family parties due to stigma and discrimination they faced at such settings. 1K-TGFTM said *"Even today, I always choose and attend the weddings. For a long time, I did not attend any family event. I even stopped going to some houses"*.

3K-TGMTF said; *"Then relatives start asking, 'are you married? Why don't you marry?' When I answer them saying that I don't like to get married, then they ask 'who will take care of you when you are old?' sometimes I avoid going to family parties, weddings, and funerals since this type of questions were frequently asked."* She said.

4.2.3 Other forms of discrimination within family

In some cases, family members have stopped speaking to them as a punishment. 8C-TGMTF said her father stopped talking to her, and even when the father was abroad and talking to her mother on skype, if she entered the room, he stopped talking.

1A-TGMTF's mother had seen her having sex with a man. Since then, the mother has started treating her differently. *"Now my mother has removed me. Removed means she has not chased me away from the family, but she does not speak with me either. She no longer cares for me. Now I don't have meals from home. I eat outside. I have freedom. Even if I go home at 1am-2am in the night, she opens the door"*.

1K-TGFTM said that his father scolds him when he brought his transgender friends home. He said *"I am 32 years old. I still have to live under father's restrictions. Father hates if I bring my friends home, especially girls who look like boys. He scolds me behind my back. Sometimes the guests overhear his scolding."* 2K-TGFTM also mentioned that his father still tries to control him and tries to impose the gender norms for girls on him. He said *"for an example, if I sit on a chair, freely sat on a chair, he will say 'girls should not sit like that. A girl needs to keep her legs close to each other."*

1C-TGMTF mentioned that there was time she lived as a boarder in her own home. She was not given food by the family members. Also her parents started caring, buying gifts, clothes etc. for their relatives' children without buying for her, in order to punish her. 9C-TGFTM said that he was not given money for an educational course by the family. *"They thought I am a useless person, and I will play mad with (waste) the money. They did not expect that I will spend it on an important work. They thought my sisters were studying well, but not myself."* Since he does not work according to the expectations of them, he was seen as an irresponsible person by the parents.

73. Group of people in the gang



3A-TGMTF said her brother's wife passes hints on her when her transgender friends come home. *"Here, see... the entire Bajar ⁷³ has come. Even 'ponnayo' ⁷⁴ have come."* One day, when her transgender friends had overheard her sister-in-law saying these things, her mother has consoled them saying *"Don't care about her. She is not a good one."*

3C-TGMTF said her uncle has taken money from a young man and tried to hire her as a sex worker. When the stranger was put into her room in the night, she has strongly opposed, shouted and drove him out the room.

4.2.4 Attitudes of family regarding gender transition process

In many cases doing sex reassignment surgery was seen as detrimental to the family pride, even in very friendly environments to the transgender person. Even though 2C-TGMTF's elder sister was very helpful she has thought the gender transition process might bring a negative impact on the marriage of her daughter. 2C-TGMTF says; *"Once I told my Akka (elder sister), that I am going to change myself biologically. Akka did not say either 'yes' or 'no'. Instead she asked to wait until her daughter got married. I have to appear as an uncle at the wedding. It's not having long hair. If the breasts were changed, everybody at the wedding will start looking at, and questioning."*

1K-TGMTF stopped going to certain houses and family parties as relatives started commenting about her surgery negatively. Previously, she had told relatives her gender transition process is a natural process. When the relatives realized that it was a medically supported gender transition process they had started scolding her.

3K-TGFTM also said that his family strongly opposes his surgery. He said *"they oppose outright saying such things cannot be done. (They say) even if the body is changed like that, it is not a 'real' situation. If you were born like this, and changed to other... what will the people around us say? What will happen to family members' status?"*

1G-TGFTM also reported a similar experience. His parents have scolded him saying, *"Are you mad? Those things do not work. Don't you feel ashamed? Forget such things". This response from parents was following a comment they received from one of 1G-TGFTM's aunts. She had told his parents 'what madness has she got. People are laughing at us. How can we walk on roads? If this was my child, I will strangle and kill her'".* He also said that some relatives intentionally ignored him when he meets them on the road.

2G-TGFTM also has faced issues from his relatives, even though he hasn't faced any issues from his parents. Some relatives have directly asked him *'why do you behave like this? Everybody knows you were a girl earlier. How can we talk to you in public if you are in this status?'* In many cases, sex change is considered a shame by the relatives.

However there were some parents who helped their children for their gender transition process. In case of 6C-TGFTM, his father had spent on the expenses of one surgery. In case of 8C-TGMTF, not only her mother and grandmother, but also the members of her extended family were ready to spend on the expenses of a surgery.

74. Derogatory term for a homosexual



5. PSYCHOLOGICAL ISSUES AND SUICIDE ATTEMPTS

It was evident that there are number of psychological issues faced by transgender persons. Except two persons all the transgender persons interviewed have had thought of committing suicide at some point. Out of the 22 transgender persons interviewed, 13 had tried committing suicide. Many of them have never received counselling or proper psycho-social support.

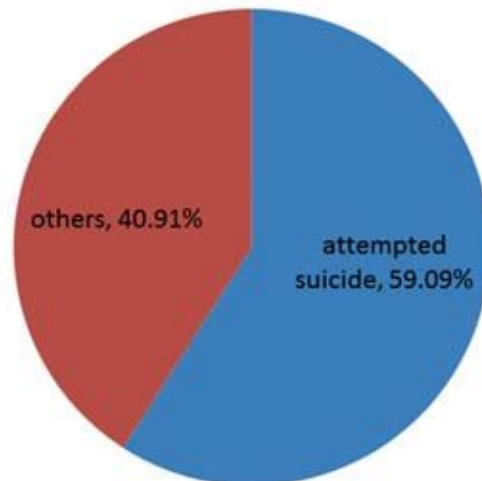


Figure 5.1 : percentage of survivors of suicide attempts

5.1 Suicidal thoughts

Even the two persons who said they haven't thought of suicide said that they have come close to thinking about suicide. *"There were times I felt fed up of life but I never thought of suicide"⁷⁵.* *"Currently I don't have any thought about suicide, but I don't know about the future as my parents are pushing me into a (heterosexual) marriage"⁷⁶.*

Six interviewees have only thought of suicide, but have never attempted it. Out of the six persons who have only thought of committing suicide, four mentioned the specific times when they thought of committing suicide.

All three were related to relationship issues with their lovers/partners. One of them had drunk salt water in anger assuming it was poison as poison was out of her reach when her lover did not come to meet her as promised and when she found that her lover was spending time with his friends. The second person had thought of suicide when her partner decided to get married to a woman. Instead of suicide, she has pierced her lip, and put a ring there. She says *"This is sometimes a pain, when it touches (the skin of the chin and makes pain) like this, it reminds me of him"*. On both of these occasions, they have used defence strategies to avoid the thoughts of suicide.

The third has thought of suicide twice (1) when his partner left, (2) when parents brought him to the police and revealed details about his relationship with a girl to the police. *"I was seen like a criminal who was*

75. 7CTGFTM

76. 7ATGMTF



worse than a murderer. They said a lot of things, and scolded me saying that girls and girls do not make love to each other.⁷⁷"

The fourth person had planned of committing suicide, but actually did not carry through with it. "I felt enough of life... when I am alone I have nobody to talk to. I have no partner, no friend. Even doctors don't accept my situation...not even family members... my father took me to a doctor... he didn't even accept... So I decided to meet that friend... I had the idea that I won't come home, if I didn't receive any help from that friend.... Yes I planned it. I arranged my room; washed my clothes. I know those documents will be needed after my death. I even filed them. I wrote two letters, and kept one in my bag, and hid the other inside the document file. The first day I could not meet the friend. The second day also I could not. I was thinking if I could not meet her on the third day, I will kill myself by jumping down a water fall. There were number of high waterfalls in that area.⁷⁸" Not only had he planned the method of suicide, but also had thought of his funeral, document needs, and a set of conditions to be achieved to commit suicide. Fortunately on the third day, he had met the friend, and has received the help he needed.

5.2 Suicide Attempts

INTERVIEWEE	RESPONSE	REASON	METHOD
6C-TGFTM	Has planned to commit suicide	Depressed and lonely, he has gone to meet a friend seeking help and if unable to receive this assistance decided to commit suicide	Jumping down a waterfall
8C-TGMTF	Has tried to commit suicide	Not allowed to have friendships with other transgender friends	Drinking kerosene
3C-TGMTF	Has tried to commit suicide	When gang members tried to cut her long hair for the third time (in childhood)	Burning with kerosene
5C-TGMTF	Has tried to commit suicide	To force mother to buy her a pair of slippers (in childhood)	Burning with kerosene
2K-TGFTM	Has tried to commit suicide	1)When parents got to know about a love affair (in schooldays), (2)When parents of the lover tried to publicize about his relationship/transition process to the villagers	(1) Taking painkiller (Panadol) tablets overdose (2) Jumping in front of a moving lorry
3K-TGFTM	Has tried to commit suicide	When problems came from society, regarding a love affair	Taking painkiller (Panadol) tablets overdose
1G-TGFTM	Has tried to commit suicide	Psychological stress	Shooting himself
2G-TGFTM	Has tried to commit suicide	Psychological stress	Drinking poison
1A-TGMTF	Has tried to commit suicide	When partner met with an accident, informed by the doctors that he might die	Tried to jump in front of a moving train

77. 9CTGFTM

78. 6C-TGFTM



2A-TGMTF	Has tried to commit suicide	When partner assaulted her	Taking painkiller (Panadol) tablets overdose
3A-TGMTF	Has tried to commit suicide	When partner assaulted her	Drinking kerosene
4A-TGMTF	Has tried to commit suicide/ has actually implemented the act of suicide	When partner left and some other issues	Has tried 4 times (1)(2) Eating pesticide 'kureta' two times (3)Has drunken lysol, and saved after one week treatment at the hospital, (4) Drinking battery acid
5A-TGMTF	Has tried to commit suicide	Issues with the adopted parents, when school education finished (two times in childhood/ one time as an adult)	3 times (1)Drinking poison, (2)Hanging herself,(3) Jumping into to a well
6A-TGMTF	Has tried to commit suicide	Family issues	Eating kaneru seeds

Table 5.1: Details about suicide attempts

13 persons out of 22 have tried committing suicide. Except on one occasion, they were saved by somebody before they implemented the act. In one case, 4A-TGMTF had drunk Lysol (a chemical used to wash toilets etc.). Being found unconscious, she had been handed over to the hospital by a person unknown to her; and later she recovered after receiving treatment for around one week in the hospital. The same person had attempted to commit suicide another three times.

Speaking about reasons for one of her suicide attempts, 4A-TGMTF said *"I had helped him a lot. When he says 'Ayye, I am going home tomorrow for holidays', I go home and come with a box of gifts for him to take home. It includes rice, coconut, vegetable and newly fried Kavum (oil-cakes). I have paid his mobile phone bills sometimes three thousand, three thousand five hundred rupees per a month. I have spent on him more than eighty thousand rupees. Now he does not talk to me."* Many suicide attempts are due to the complexities of relationships. In a culture where same sex relationships are not accepted, these complexities are unavoidable. 4A-TGMTF was not only strongly attached to her lover/friend, she also had spent a considerable amount of money which she calculates here. As a poor person, money means a lot to her. She understands that she has not only lost her friend, but also has been cheated. So she decides to commit suicide.

Further speaking about how she planned the suicide, she says *"I bought 50 grams of Kureta (pesticide), a bottle of water, a tin of beer and went to Nuwara Wewa Tank. After drinking beer, I was ready to take 'Kureta' 50 grams with water."* She explains her plan to kill herself and again remembers her lover/ friend who cheated her. *"I can't forget him even now. Even today I suffer because of him. One day he will also, suffer."* She feels her suicide is also an act of revenge against the person who has cheated her as he would possibly realize he was responsible for this tragedy. Also, if we consider her statement 'one day, he will also suffer' it might possibly relate to her beliefs in Karma, as a Buddhist.

Fortunately she was saved by a person who was watching her from behind. *"I didn't know, a person I knew 'R' Malli was watching me. When I was drinking some water from the water bottle, while keeping the Kureta in other hand, 'R' malli kicked my hand. He was the person who saved me!"*



This suicide attempt can be recognized as a pre-planned suicide attempt, where she is clear about the reasons, results, as well as venue, time, and the method of how the suicide would be committed. However not all suicide attempts come under this category.

For example, 2K-TGFTM's decision to commit suicide is a sudden decision. When his lover's mother threatened him, he decides that his whole world had collapsed. He says *"Because of a love affair I had with a girl, the girl's family members tried to spread stories about me amongst the villagers saying this one is somebody like this". I felt enough of my life at that moment. Our family did not know about such an affair or about my gender transition process. Then the girl's mother threatened me saying 'aren't you changing in this way? I will tell everything about you'. I was in the girl's house at the time. I thought (everybody) will know our love affair, my gender transition process... it will be a big problem... I jumped on to the road expecting to be knocked down by a vehicle. I was knocked by the back of a lorry!⁷⁹* After the accident he slightly remembers that he had walked home in difficulty, opened the door, and fell down inside the house. Fortunately his head was not damaged when he fell. Family members had found him lying unconscious under a table at home, and they have kept him on a bed. When he regained consciousness he was told by the family members that they did not take him to hospital, as there was no apparent wound outside. However this researcher feels that perhaps the family did not want to take him to the hospital because of who he is.

1G-TGFTM who was a police officer had tried to commit suicide by shooting himself, while he was at a police post. However his colleagues, having noticed what he were about to do had saved him.



6. WORKPLACE HARASSMENTS

6.1 Socio economic background of the transgender interviewees

A majority of the interviewees (6 persons) worked at Non-Government Organisations NGOs, while the second majority (3 persons) was engaged in self-employment. Even being a farmer and/or a daily labourer could also be considered self-employment. It seems within this small sample, the employment distribution is centred in the NGO sector, self-employment, and beauty culture. Even though it might be incorrect to generalize these statistics as the sample size is small, this is in a way representative of the difficulties faced by transgender persons regarding their access to employment.

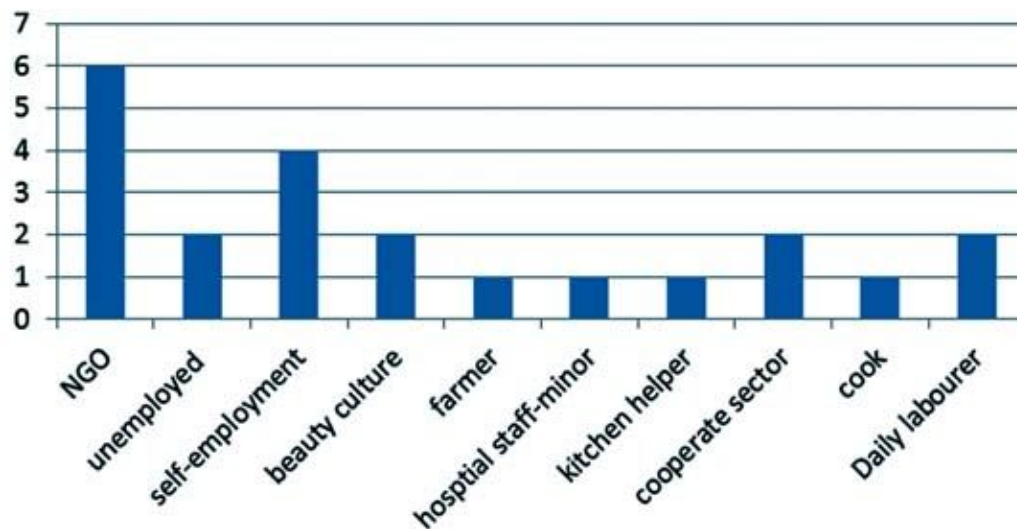


Figure 6.1: Employment distribution of the transgender persons interviewed

When economic status was considered, a majority of the interviewees belonged to the poor or lower middle class. Only one person could be considered wealthy. Income of 13 persons, out of 22 was less than 20,000 LKR per a month.

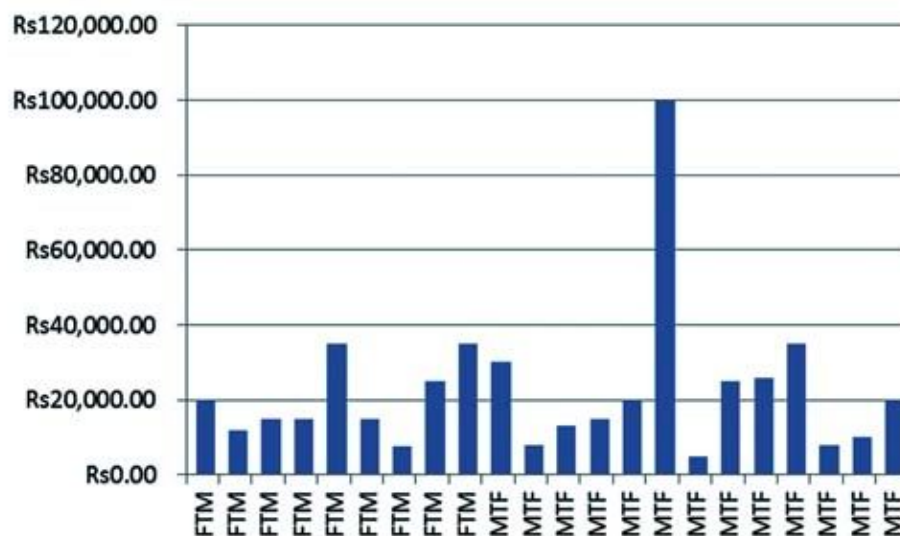


Figure 6.2: Income level distribution of the transgender persons interviewed



6.2 Workplace harassments

Out of the twenty two transgender people interviewed seven persons had experienced insulting verbal comments from workmates.

Nine persons had left jobs due to issues related to their gender identity and sexual orientation. Out of the nine persons, three people have left the job due to insulting comments from workmates. Another two people had left the job as their gender history/sexual orientation were revealed without their consent. Two people have refused the job opportunities as they were asked to wear clothes according their biological sex. One person had left the job as workmates started looking at him strangely when the gender transition medical treatment process was started. Another person was terminated from the job as his bag was found with an LGBTIQ Human Rights publication (a copy of Rainbow News Newsletter published by EQUAL GROUND).

6.3 Insulting comments

The majority of insulting comments centred on the concept of gender, basically targeted at ridiculing the femininity in males and the masculinity in females.

"I faced such an issue, when someone from our village who came to work in the same company had revealed the details about my gender identity to other workmates. Then they started to ridicule and make fun of me. When I am working with the machine, I can hear their comments. Because of these things, I left the job last year. Now I feel I could have stayed there, even amidst the difficulties. Salary was good there. If I was called 'ponnaya'⁸⁰, I can even kill them and be killed by them. I have blamed them harshly, and even beaten them for calling me ponnaya. Sometimes I blame them in filthy words. If it is a woman, I say even your children will become ponnayas.⁸¹" Calling a person a ponnaya challenges his masculinity. Here he tries to prove his masculinity through, violence, harsh verbal arguments, however ultimately finds himself desperate and resigns from the job which was a well-paid, good job for him.

"When I was signing the attendance sheet in morning, one of the workmates said 'sign, nangi (young sister)'. I said 'don't call me that word. I hate that word' He replied 'however you are a nangi'. If I am a nangi I should be able to marry a man, I said. He replied even that is possible, however such things are not allowed in this office. Then I said, 'the same thing applies to you, we can call each other any name outside the gates of this office, but not inside.' Further speaking he (MTF) mentioned an incident where he finally decided to leave his job as some workmates were insulting him by calling him 'nangi'⁸². A similar incident was reported in the case of another FTM, when he was called 'malli (young brother)' in an insulting manner. However the way he handles insults is quite different from the latter.

"I have never had quarrels inside the workplace. I ignore whatever is said, and keep myself silent. Sometimes they call 'malli'. I keep myself silent. Then they ask 'are you a boy or a girl?'. Then also I keep myself silent, as if I didn't hear them. After that, they don't say anything. Usually then they speak in a friendly manner."

In addition to these words used to insult transgender persons, another MTF from Anuradhapura said that she was called 'Samanalaya (butterfly) and 'Jonti'⁸³ by some of her workmates.

80. Ponnaya is a derogatory term referred to a homosexual in the Sinhala language

81. 6ATGMTF

82. 4ATGMTF

83. Derogatory name for gay man i.e. 'ponnaya' or 'faggot'



6.4 Other harassments in workplace

1G-FTM mentioned an incident in which his relationship with a female police officer was revealed to the OIC, and how he was pulled up publicly and transferred to a rural war affected police station as a punishment.

"In 2009, I was working at a police station in the Eastern Province. I had an affair with another female officer who was working with me in the same police station. Quarters were situated like barracks. All beds were kept in an open hall. Some other female officers had told the OIC that we have a strange close association with each other. I only wear uniform (female uniform), I don't wear earrings. Or otherwise I will wear denim, T-Shirt, shorts etc. The other girls thought I am a lesbian. Those days, it was war time. The weapons were kept under our beds. Suddenly around 7pm in the evening, the OIC and another four police officers came to the quarters and asked us to hand over all the weapons to the armoury. The OIC frowned at me. However I did not care. I could not think what this was exactly. I also handed over my weapon to the armoury along with others. Then all of us needed to sit by the beds belonging to us. Then the girl who had an affair with me started crying while sitting on the bed. I still couldn't understand. The OIC started haranguing her 'Why didn't you beat her? If you were harassed, you have to hit back.' He was scolding me looking at the other side. 'I knew this person was like this. I warned all of you to be careful of this person. This one can't even see a girl. If somebody comes for police duty, they have to do police duty. These ones do lesbian sex acts (āppa gahanawā⁸⁴).'" After that he had argued with the senior police officer regarding the allegation. Then the senior Police officer had scolded him in filthy words, and threatened to give him a punishment transfer. Immediately following the incident he was given a 12 hour shift at roadblocks as a punishment. He had also heard other girls asking questions from his lover - 'Aren't you ashamed to love another girl. You have to find a boy. Isn't it? What will happen if people at your home get to know about these things?' Some had made insulting comments about him in the office, in a way he could hear them. Soon, he was transferred to another police station as a punishment. The senior police officer who transferred him had informed his new commandant of this incident and had warned about his behaviour. Due to these reasons he had tried to commit suicide by shooting himself.

6.5 Access to employment

Two people (1 FTM and 1 MTF) said they were disqualified from several employment opportunities due to their gender identity. During the job interview process, both of them had been unnecessarily questioned about their gender transition process. Once an interview board member has asked the FTM transgender person *"Did you come with Akka's (elder sister) birth certificate?"⁸⁵* The MTF transgender person was told by an interviewer, *"you should come to either one side (one gender). As long as you stay in the middle, we can't offer you a job opportunity"⁸⁶*. Five people have not even applied for office jobs as they knew the difficulties faced by transgender persons in getting an office job, while another two persons have always applied for employment that needed lower qualifications.

Three of the interviewees had sex with the senior officers in the workplace, while one person found it easier to get promotions and salary increases, the other two think that it reduces the workload and difficulties attached to work, even though there is no apparent salary increase. When an MTF transgender interviewee who had worked in a hotel had complained to the manager about sexual harassment from a workmate, even though the workmate was strongly advised against it by the manager, eventually the manager too was interested in having sex with her. Later the manager

84. āppa gahanawā is a derogatory term for lesbian sexual acts

85. 9CTGFTM

86. 1CTGMTF



influenced her to have sex with his brother as well as to supply sex work for the guests staying in the hotel.

Out of the 22 persons, five persons have not experienced any form of discrimination, or stigma at the work place due to their gender identity or sexual orientation. When looked at, the reasons are that one person is engaged in a self-employment related to beauty culture, a second person has just started her career as a beautician in a salon, the third feels that she was given a job as she followed the gender norms, (always wore clothes according to biological sex, when she goes to the job) and the fourth and fifth persons feel safe as they are not open about their sexual orientation/gender identity at the workplace.



7. STIGMA AND DISCRIMINATION AT HEALTH SETTINGS AND ACCESS TO HEALTH SERVICES

Sri Lanka being a welfare state, supplies many health services free of charge to all the citizens through its island wide network of government hospitals. In the meantime, there are number of private hospitals and clinics operated by private companies and individuals which charge money from the patients.

As the services are supplied free of charge, there is a lack of concern with regards to the rights of the patients in government hospitals in general. In the case of transgender persons this situation is further worsened. By belonging to a stigmatized and marginalized community, many transgender persons experience stigma, discrimination, and many human rights violations in the health settings.

7.1 Access to Health Services

Out of the 22 transgender persons interviewed, 15 persons (from the Colombo District) have started the gender transition process with the consultation of a medical doctor or a psychiatrist. Out of them, 12 persons have started hormone treatments. Nine persons who have started the gender transition process were FTM transgender persons, out of which four persons had completed at least one surgery as well. From Anuradhapura District nobody has started any treatments, not even hormonal treatments.

One of the Male to Female transgender persons from Anuradhapura said, *“Gender transition process is at least a two or more year long full time process. We have to wear women’s clothes for all 24 hours. Cross-dressing for 24 hours is not something possible in a rural area like Anuradhapura.”*⁸⁷ Also, for many of the interviewees in Anuradhapura, stricken with poverty and many other social issues and struggling daily for a meagre income, the gender transition surgery remains only a dream to them. However there was one MTF transgender person in Anuradhapura who had consulted a medical doctor and was preparing to start with hormonal treatments soon.

Due to the lack of concern regarding right to privacy of the patients in government hospitals, many transgender persons’ access to health services is limited. Even though the majority of the transgender persons interviewed were poor, many of them still choose the private hospitals instead of government hospitals due to these concerns.

*“The inconvenience we face at government hospitals is more than what we face at private hospitals. In private hospitals, we can talk without fear, as we make a payment. It is our right to get a service valued for the amount we pay”*⁸⁸.

1C-TG MTF also expressed her strong unwillingness to attend government hospitals. *“Sometimes I have thought, it does not matter even if I die with an illness. I won’t go again to that place; it is more difficult to bear the ill-treatment of the people than the illness”*. She further said, *“Sometimes when I am in the queue, attendants will come and choose people standing behind me and bring them to the front of the line”*.

6C-TGFTM also confirmed this issue and said *“I know how they treat even a general patient in a government hospital. They will treat us worse than that if we go to a government hospital. That’s why I go to private hospitals”*.

87. 5A-TG MTF

88. 2C-TG MTF



4C-TGMTF having been involved with an HIV prevention project with government hospitals described how the attitudes of the medical staff have changed over time, appreciating the progress of government hospitals. She said *"earlier we were hesitating to go to government hospitals. Now that does not matter for us. Earlier attendants and labourers in the hospital staff used to look at us strangely. Now it is not like that. Government hospitals are like ours. I am going to STD clinics often. We have to pay for private hospitals, I think the government hospitals are better as services are supplied free of charge."*

However even inside the private hospitals, stigma expressed towards transgender persons still continues to exist. A number of interviewees reported many issues related to stigma and unnecessary attention at both private and government hospitals. It was evident that the institutional transphobia and homophobia existing in the health sector has limited the transgender person's right to access health services in Sri Lanka.

Also all the transsexuals interviewed mentioned that they cannot afford the surgeries for the gender transition process, even though few had actually completed the first surgery which costs less in comparison with other surgeries. Also one transsexual mentioned that she plans to sell her kidney in order to cover the costs of the gender transition surgery.

7.2 Harassments at Medical settings

A number of FTM transgender persons have experienced sexual harassment, and severe human rights violations with regards to their privacy. The following incident where a doctor had tried to harass a FTM had taken place in a government hospital in the Kurunegala District.

"One of my hands started trembling. So I went to the government hospital to consult a doctor. I gave them my female name (eg. Maheshi). However they had noted it as a male name (eg. Mahesh). When the doctor asked my age, I said, I was 25; he refused to accept this and said you are only 15 years or 16 years old. So I told him that I was born as female. He understood it as a hormone imbalance in my body. Then he tried to touch my private (sexual) areas. I refused and quickly left the place⁸⁹ " As he had consulted the doctor regarding an illness in his hand, there is no apparent need for the medical doctor to see his sexual organs in order to do that. Even in such a case, he should have asked him consent before touching the sexual areas. The doctor has apparently committed a sexual harassment in this case.

2K-TGFTM mentioned how the nurses in a psychiatric unit had revealed his details to the other attendants, and how attendants started repeating these details to other patients. He has complained of this to the doctor.

2K-TGFTM mentioned another incident of when he was admitted to the hospital for his hysterectomy. His friend was not allowed to stay in the hospital to take care of him and the hospital staff had examined his genitals when he was under post op sedation, without taking care of his immediate medical needs. Even before the surgery it seemed that the hospital staff had revealed his identity to the other patients, as they began asking questions regarding 'his illness and the reason why a gynecologist came to examine him. *"After surgery, I was put back in the ward. The story had spread from the operating theater to the ward saying that I am not a 'male', but a 'female'. In the night, my friend tried to stay with me to take care of me. Even though my condition was serious, he was not allowed to stay there. The Nurses said 'No, No, you don't need to stay here. We can take care of him'. They were all male nurses and male attendants. Catheters were connected to remove urine from my body. I was also given saline. In the night, my condition was more serious. I started vomiting and screaming with pain. Nobody helped me, nor was I given painkillers. I was in an out of consciousness. In the night, a group of people including male nurses, and attendants came. They said 'now we'll see who this is. Suddenly they raised my Sarong.*

89. 7C-TGFTM



I tried to put it down. But I couldn't do it. "aa... even though upper parts are like that... this is this way. See what has happened to Sri Lanka. Remember, how this person was admitted and told us all the lies..." they talked all the insulting things about me. The next day onwards, patients also started coming to see me."

Another interviewee mentioned how the attitudes of a plastic surgeon ultimately resulted with the poor quality of a surgery conducted. The surgeon had personally spoken to the FTM transgender into forcing him to change his decision *"you don't have any illness. Why should I cut a healthy girl's body? Irrespective of how far technology has developed, you are still a girl. That was her attitude"* he said. Even though the surgeon had refused to do the surgery three times, on the fourth time, she (the plastic surgeon) accepted the case due to the strong influence of the psychiatrist. Before the surgery, the psychiatrist and the surgeon had a discussion for around 40 minutes. Finally the surgeon had said *'if you want me to do the surgery I will only do so much and not more.'* Then the psychiatrist has explained to her *'that will be a big injustice for this Lamaya (child), as this is a series of surgeries conducted step by step'*. However what ultimately happened is that the surgery was conducted poorly, and the FTM had to go for another surgery to correct it.

Also another two incidents were reported regarding asking continuous, curious questions by the minor medical staff from two transgender persons admitted in two different private and government hospitals for gender transition surgeries. Questions such as these aimed at worrying and tiring a person who is about to go into surgery is inhumane and totally unnecessary coming from minor medical staff who have no business asking such questions of the patient.^{90 "}

7.3 Actions taken for protection by transgender persons

One transgender person had complained to the doctor when minor staff had laughed at her when she went to receive treatment in a private hospital. The doctor had sternly advised the staff not to do that again and had asked them to apologize to the transgender. The doctor had said *"they came to meet me to get medical treatments. They didn't come to meet you. So, please apologize to them for your behaviour."*

Another transgender interviewee and an activist also mentioned an incident where a nurse in a private hospital has consciously ignored her, and subsequently she had spoken about her right to be treated equally as other patients. She said *"the nurse was not replying and I asked her again and again. I said 'I am talking to you. I'm not coming here free of charge. I made a payment and came. So you have a responsibility to treat me equally, same as the other patients.'"*⁹¹

7.4 Attitudes of the medical staff

A member of the minor staff in a government hospital, speaking to the researcher said *"all these feminine men who behave like women are sex workers. They are just earning money without doing anything. It's good if these people can be corrected and given other employment. I don't like men behaving like women. It's like a drama."*⁹² Further speaking she said, she was given a stern warning by the doctor in charge of the section, for advising a few transgender persons to correct themselves on the first days she came to work.

90. 6C-TGFTM

91. 1C-TGMTF

92. An interview with a hospital attendant in a government hospital in Anuradhapura District



Another female medical doctor specialized in treating sexually transmitted diseases said even though she does not want to discriminate transgender people on the basis of their gender identity, she still does not approve of people who cross-dress, especially men who have sex with men as they are a primary risk group for HIV. Also criticizing the values of the research she said, *"By promoting the human rights of transgender people, we will be making space for many transgender people to come out. So, number of transgender people will be increased, that means the persons under the risk of HIV will also be increased"*⁹³... She further said, *"These things ultimately will affect our culture and morality in a bad way, and trying to change the system entirely for the betterment of minorities will affect negatively on the entire society."*

The researcher also met a psychiatrist who was trying to correct an MTF transgender person aged 25 years, by supplying him counselling to be a heterosexual 'man'. When asked about the availability of gender transition surgeries in Sri Lanka, she said *"I don't think that is impossible. But I haven't seen such people who have gone into surgeries. However my personal idea is not to approve such things"*⁹⁴ There are several instances in the past, where the surgeries for transgender persons were not approved due to transphobic attitudes of the psychiatrists. For example, in 2010, EQUAL GROUND intervened in assisting such a victim of ill-counselling. In that case, the decision of surgery was cancelled as the daughter of the psychiatrist opposed it. This was revealed by the psychiatrist himself in a live television counselling session which he tried to turn the transgender person to a heterosexual 'man'⁹⁵.

However out of the seven medical staff members (a hospital attendant, a nurse, a doctor, two STI doctors, and two psychiatrists) interviewed, one psychiatrist and one STI doctor were very optimistic towards the promotion of trans-human rights in the health sector.

93. An interview with a medical doctor in a government hospital in Anuradhapura District

94. An interview with a psychiatrist in Colombo District

95. Derana TV, Sithgimanhala programme, on 20th January 2011



8. EXPERIENCES OF STIGMA AND DISCRIMINATION AT PUBLIC PLACES

Transgender persons have experienced stigma, discrimination and violence in public places in various forms such as non-verbal gestures, verbal insults, threats, physical attacks and police arrests.

Non-verbal gestures are often used by a variety of individuals when they needed to show the transgender person to their friends or colleagues and to discuss about him/her in an insulting manner. Many transgender persons find such attention and non-verbal gestures directed at them as tiresome and demeaning.

2C-TGMTF described three incidents of stigma she has faced at public places. *“They wink at each other, and point towards me with gestures. I have even heard them saying ‘there is that type of person’. I have not reacted to any of those gestures or comments. Since they are not calling me by name, we can’t point a finger at them. When I go to the Bank, the cashier pokes the person nearest and points at me. The next person also looks at me and suddenly looks down, or otherwise laughs.”* Similar experiences were voiced by several transgender persons when they went to hospitals, other government offices, in public transport as well as public parks.

In another incident, a group of salespersons in a bookshop in Colombo had laughed at the MTF and she has complained to the manager. The third incident happened in a textile shop. While several salesmen were showing her women’s clothes which she wanted to buy, two saleswomen had laughed at her. *“I heard one girl saying to the other, these are ponnayos. Then I said to them ‘If my trouser was taken down, I have the same thing (sexual organs) all your male colleagues have. I can show you how to use it if you need. But mind your words, when speaking about a customer. And then I went and complained to the manager’*

There are a number of harassments faced by transgender persons while travelling in public transport. 1A-TGMTF said, *“When I get into the bus, drivers and conductors look at me with a strange look, and say this is this type of person”*. 1K-TGFTM, also confirmed that drivers and conductors point them out secretly to others if they know their gender history.

Even though, 1A-TGMTF said that she keeps herself silent about such comments, 6A-TGMTF said that she has either frowned at or said something to the passenger who made such comments. 4A-TGMTF said some people have shouted at her calling her ‘ponnaya’ when she travels in public transport. She says *“When I am in the bus, sometimes, some people on the road shout at me saying ‘ponnaya’. Then I keep silent as if it is not for me. Then sometimes they come and shout at me, from the window of the bus. Then all the passengers start looking at me. Some people feel sad for me, while some are laughing at me. When such things are said, I can neither get down from the bus nor stay in the bus”*. 8C-TGMTF said that she is given phone numbers secretly by men, and gets touched by men assuming she is a girl. She also said, a bus conductor was regularly talking to her without knowing her transgender status.

5A-TGMTF mentioned a different story of being called ‘ponnaya’, when she refused to have oral sex in the bus as requested by the passenger, an army soldier who was having a sexual encounter with her in the bus. *“Fuck your mother, ponnaya. A young man (Kollek) can’t go in the bus because of you. We have to assault and chase you away”⁹⁶*. At this moment, the transgender person had decided to play along with

96. 5A-TGMTF



the army soldier. Then she had replied his comments loudly in front of all the passengers in the bus saying; *"Am I the ponnaya now? You were saying nothing, until I touched you and your penis got erect. You asked me to take your member into my mouth. When I refused that, now suddenly I am a ponnaya?"* By telling the truth, and not rejecting the accusations brought by the army soldier, and by making the accuser as equally responsible regarding the accusation, she enjoyed more of a sense of victory and humour than the stigma attached to the incident.

Several other persons also mentioned the stigma they faced at public parks. 6A-TGMTF said that they are seen as sex workers by people in the park. 2A-TGMTF said some men request their mobile phone numbers in the parks, and some heterosexual couples call them ponnayas. *"One says to the other, 'see, there is a ponnaya'. Sometimes even when husband and wife are travelling together on the bike, the husband shows his stretched tongue to me, while the wife laughs at me."* 1C-TGMTF also confirmed that she has also experienced such attention from heterosexual couples.

1C-TGMTF and 3K-TGFTM said they have limited going into public parks due to the stigma they have faced at such settings. 1C-TGMTF said "except with a group of friends, I never go to such places. If I went there to relax my mind, what happens just increases my mental pressure further". However 3K-TGFTM has never gone into parks due to the stigma existing at such places. He says *"We never went to such public places. If we went somewhere, it was a temple to offer flowers, and each time we took private transport. We never had the freedom to touch our hands together in public places like parks. We liked to do such things. (Laughing) but we never did. Even if we went to a film hall, always we accompanied another friend. We never went only two of us. We had the fear that we will be marked. So we never had issues from public."*



9. TRANSGENDER PERSONS AND HISTORY, CULTURE AND RELIGIONS OF SRI LANKA

History, culture and religion are not usually recognized as transfriendly spheres as they have usually been the very tools of heterosexism, and gender binarism. Audre Lorde's famous statement '*for the master's tools will never dismantle the master's house. They may allow us temporarily to beat him at his own game, but they will never enable us to bring about genuine change*' should be noted here. Throughout history transgender identities were either hidden or censored and institutions of 'culture' and 'religion' were used to repress the LGBTIQ communities along with others who differ from normative understandings. So it is commonly argued that LGBTIQ identities are against culture and religion, and such identities were unseen in our history. The same censorship from history can be seen in the case of the history of disability, the history of low caste people, and the history of any community who has faced inter-generational stigma throughout their history. Even when personal histories of transgender people are considered, they are not only undocumented, but also unspoken even with their closest friends and family.

However it is not easy to totally eradicate the transgender persons' existence in history. There are plenty of remnants still left by history itself. Also, transgender persons same as other human beings, represent various cultural and religious identities. So it is not practical to abandon the history, culture and religion, even though they have been 'master's tools' throughout history. Hence this chapter tries to locate some of the remnants left by history of transgender persons, religious beliefs and identities of transgender persons interviewed, and how transgender persons have been represented in contemporary media and art in Sri Lanka.

9.1 Olga Devi legend

'Olga Devi' mentioned in the song 'Olga Devi'⁹⁷ sung by prominent Sri Lankan Baila⁹⁸ Singer Nihal Nelson refers to a legendary transgender person believed to have lived in colonial times. The term 'Devi' is literally synonymous with 'Goddess', can also be translated as lady, conveys certain romanticism, aristocracy and glamor. Lyrics describe that Olga Devi does not belong to either of the binary gender categories, while making a romantic picture of an MTF transgender person's life in early Sri Lankan peasant society.

*"He looks very nice with Sarong
He also looks nice with the trouser
He also likes the Saree
Don't you know who he is?
The person is neither a man nor a woman; he belongs to neither of both genders
She is like a comet....."*

*"On the day Brungasena married, she came to prepare food,
When Princy nangi married she came to do hairdressing*

97. (https://www.youtube.com/watch?v=OEg8WMR8_fm) accessed on 14th November 2014

98. A popular form of folk music originated centuries ago among the 'Sri Lankan Kaffirs' or Afro-Sinhalese communities (mixed communities of Portuguese, African and native Sinhalese people). It primarily utilises European instruments and rhythms found in Spain/Portugal, Sri Lanka, Africa and South India.



*When Willie Mama died she sang Wessanthara Jataka⁹⁹ poems
She, Olga Devi is the comet..."*

This song not only romanticizes a transgendered person's various utilizations in various settings in the village, but also recognizes her as an essential part of village and community activities. On the one hand, Olga Devi, by liberating herself from the traditional gender norms, reaches to a potentiality where other people's restricted hidden gender and heteronormative structures cannot reach.

In early Sri Lanka, where women were tabooed from becoming actresses, it was men who acted in performances. Female impersonation by men in performances was common in the history of Sri Lanka. But there is not much evidence regarding the situation of Female to Male transgender persons in the history of Sri Lanka except for a few instances in Tower Hall¹⁰⁰ dramas.

Like in many South Asian Cultures, male to female transgenderism in dramas has existed in Sri Lanka. For example, the female characters in Sokari Nadagama traditionally played on the newly harvested threshold of rice (kamata), were played by male actors. The stock roles of Sokari amma, the goddess Pattini, Suniya the she devil, Lenchi and queens Ridhdi and Manikpala were portrayed by men. Nor were women allowed to help in these productions either ¹⁰¹.

However, it cannot be considered that such female impersonation were conducted with a sense of the modern type of transgenderism, as this cross dressing overlaps with the taboo for women not to perform publicly. So this cross dressing has to be identified as an act of patriarchy to control women. On other hand, Sri Lankan folk dramas had some strong influences from the Indian sub-continent, as Buddhism did not encourage entertainment activities such as drama and singing. In the Brahminical codes Kautilya and Manu had shunted women as well as the under caste, out of the public gaze¹⁰².

However, MTF transgender persons might have used this avenue to express themselves as females in public spaces as the song 'Olga Devi' suggests.

9.2 Nachchi Community

According to Andrea Nichols, the term 'nachchi' which is currently used to describe transgender persons in Sri Lanka derives from the Indian word 'nautch' which was originally referred to as nautch girls, who were courtesan dancers/sex workers in India¹⁰³. So this supports the idea that the nachchi identity in Sri Lanka might have historically developed from female impersonation by males in public performances or from sex work.

The term nachchi has been used for a longer time for male to female transgender persons in Sri Lanka in a similar manner as Hijra in India. Different from the term Hijra, this is only known to community members and their friends, rather than a widely known historical name. I was told by some Transgender persons that the term nachchi was adopted by the community members as a term against the widespread, derogatory term 'ponnaya', and it was embraced by the MTF transgender persons with a lot of love. Meanwhile I was also told that the term nachchi has its origins in Kerala, as the girls coming from Kerala added 'nachchi' to the end of their name, meaning 'beautiful girl' (eg. minachchi), and that was later taken by the nachchi community.

99. Wessanthara Kavi are the folk poems based on a Jataka tale (believed to be a previous life story of Buddha): the story of Wessanthara King who offered his children to a stranger to earn merits to become a Buddha. When a funeral happened in a Sinhalese village these poems were sung in a mournful rhythm from morning to evening.

100. The drama tradition in Sri Lanka in early 20th Century was based on Tower Hall theatre established in 1911

101. De Mel, Nelouffer. 2001. "Setting stage gendering the nation". Social Scientist Association.

102. ibid

103. Andrea Nichols. 2010. Dance ponnaya dance in Feminist Criminology.



However nachchi identifying persons were closely associated with the male sex work profession. “For example, in 1980s to 1990 in Colombo, there were small rooms used as film halls to screen pornography. Even though all the pornography films shown were heterosexual, nachchi persons regularly went to see these films expecting to find clients for sex. Later these places became cruising spots.”¹⁰⁴

Also, some MTF transgender persons preferred to identify themselves as ‘transpersons’ rather than the term ‘nachchi’ as it was closely associated with sex work. “We were earlier nachchi. Now we are trans.” This was said with some dignity.

Even though the terms such as Sankranthilingika were introduced as Sinhala terms for ‘transgender’, many Trans persons use the English term ‘trans/transgender’ than its Sinhala translation to identify themselves.

Meanwhile many Nachchis believe that they are blessed and protected by the Goddess Kali. This can be similar to worshipping of Bahuchara Mata in India. Goddess Kali is the fierce form of the Goddess Durga, a heterosexual goddess who does not have links to any story related to transgender persons like God Aravani or Goddess Bahuchara Mata worshipped by the Hijras in India.

It is no doubt, that the Nachchi community in Sri Lanka is one of the most vulnerable and powerless minority community throughout history, and it can be assumed that they were neither given space nor the capacity to establish their own temples to worship a god dedicated to them. In the meantime the fierce powerful and revengeful nature of Goddess *Kali* might have attracted them as they experienced continuous powerlessness, marginalization and discrimination. They might have dreamt of a magical power which avenged those who hurt them, and discriminated them. Also it can be assumed that worshipping of Goddess *Kali* might have supplied them with a form of protection in a culture where people were afraid of the Goddess *Kali*.

Nachchi persons have a separate dialect which includes words which cannot be understood by a person outside the nachchi community. For an example, the word ‘jonse’ means either a man or his male genitals. Even though it does have a number of words relating to sex, and sexual acts, it does not have words relating to general life outside sex, sexual acts, and the sex industry.

It is no doubt that MTF transgender sex workers are one of the most marginalized groups who experienced number of challenges regarding their security. Hence this development of a separate dialect seems a safety measure developed within the nachchi community to protect themselves from transphobic and homophobic attacks as well as harassments from the police.

104. A FGD conducted by the researcher in Colombo. This was told an MTF transgender person who is in her 50's



9.3 Female to Male transgender persons

There is no special god that is prayed to, no special dialect, or any cultural practices found in the case of FTM transgender persons and it is very difficult to find details on the history of FTM transgender persons in Sri Lanka. We must ask the questions: 'Why is history so silent about FTM transgender persons?' and 'Were they absent throughout history?' We don't think it is justifiable to assume that there weren't any FTM transgender persons in Sri Lanka, but their identities were kept out of historical documentation by the society itself.

It must be noted that women were not even allowed to perform on the stage at least for a female character. So they did not receive the space which was received by the MTF transgender persons. Before the advent of Western Nations, women were not given the right to Education. As the many traditional educational centres were limited to Buddhist temples, women were kept outside such educational opportunities. *Gajaman Nona (Dona Isabella Perumal Korneliya, 1748-1814)* the leading poetess in Matara Era had to disguise herself as a boy to enrol in the temple school¹⁰⁵ in Matara. Also the decisions over one's marriage were usually taken by the parents and the members of extended family. In such a context, it could be assumed that all the persons including LGBTIQ persons, especially women were forced into heterosexual marriages.

While, men had the alternative opportunities of choosing to join the Buddhist order, women lacked even this as the female Buddhist order was not a strong establishment when compared with the male Buddhist order. Remaining unmarried and living without children was extremely difficult for a woman in a feudal, peasant society where children or human labour was considered as wealth.

9.4 Buddhism and transgender people

Buddhism has played a major role in creating the culture of Sri Lanka. Hence, it is very important to look at what Buddhist texts mention about transgenderism both in terms of its philosophy as well as history.

In Buddhist Vinaya (code of discipline for Buddhist monks), all types of sexual acts irrespective of whether it is heterosexual, bisexual or homosexual are considered as Pārājikas. A Pārājika is not a sin; it is being defeated in the process of achieving nibbāna. Buddha has not considered any sexual act as a sin, but rather he sees them as strong bonds to lay life, which keeps one away from reaching the path of nibbāna and duties of monkhood.

Dhammapada commentary (verse 43) mentions a story of sex change. The youth Soreyya sees the golden complexion of Mahakaccāyana Thero, when the Thero was adjusting robes. Soreyya wishes if Thero was his wife or the complexion of the Thero was his wife's. Because of this thought, instantly he turns into a woman. Lady Soreyya flees the town because of the shame and later she marries another man in another town. She even conceives two sons in the new marriage and also has two sons in the previous marriage. Later, lady Soreyya asks for pardon from Mahakaccāyana Thero following advice of another man, and when pardon was given, Soreyya automatically turns back to a man and decides to become a Buddhist monk. After becoming a Buddhist monk, he soon attains nibbāna¹⁰⁶.

Even though Soreyya story includes several fictional aspects of a folk story, it has admitted that a person who had undergone a sex change has no barrier in attaining nibbāna, the highest status a Buddhist or Buddhist monk can achieve.

105. <http://www.sundayobserver.lk/2012/06/10/mon01.asp> accessed on 18th of Oct. 2014

106. <http://www.tipitaka.net/tipitaka/dhp/verseload.php?verse=043> accessed 18th Oct 2014



This is further confirmed by the Vinaya Pitaka, when a monk had a female sexual organ, she was asked to join the Order of Buddhist Nuns. Similarly when a nun had male sexual organs, he was asked to join Order of Buddhist Monks¹⁰⁷.

Even though Buddha has accepted that sex change has nothing to do with one's spiritual capacity to attain nibbāna, meanwhile it brings doubt whether Buddhism is phallocentric to decide one's gender considering the prominence of the phallus disregarding one's self-choice and other secondary sexual characteristics. These monks and nuns who had sex changes could have been inter-sex persons. Also it needs to be considered that both Buddhist monks and nuns wear similar clothes, shave their heads in a similar manner, and in theory live celibate lives. In such a context it is an interesting question to ask what decides their gender.

However both of the examples presented above refer to transsexuals within a binary gender framework. When it comes to those who are in between the male and female gender categories, the story becomes different. One 'having the sexual characteristics of both sexes' (ubhato-byañjanaka) and 'one without testicles' (pandaka) are considered unqualified for ordaining¹⁰⁸. Vinaya mentions that Ubhato-byañjanakas should not be ordained because of the possibility that they might entice the other monks or nuns into sex¹⁰⁹. However it forgets that any human being can be enticed by another human being into sex irrespective of gender and sexual categories except in the case of asexual persons.

It is also evident that various commentators have later interpreted these vinaya rules as practices of homosexuality and bisexuality. For example, Buddhist commentator Buddhagosha identifies two categories of Ubhato-byañjanaka and misunderstands it with the concept of bisexuality¹¹⁰. Buddhagosha says there are male Ubhato-byañjanaka who could not give birth and female ones who could give birth and either type could be attracted to both men and women¹¹¹.

Even though many scholars have translated Ubhato-byañjanaka as hermaphrodites, it could be even a wider category including transgender and intersex persons. If we are to translate Ubhato-byañjanaka as hermaphrodites, they become a minority within the minority of intersex persons as Napumsaka-Pandaka mentioned below which includes intersex persons with no clearly defined genitals.

As Buddhist Vinaya texts mention a range of sexual acts and groups, it is not fair to conclude that transgender persons were not mentioned in the texts. Hence we prefer to include transgender persons in the category of Ubhato-byañjanaka than the category of Pandaka.

Pandaka 'one without testicles' is the next sexual category similar to Ubhato-byañjanaka who is not allowed to be ordained in the Buddhist Order.

Leonard Zwilling (1992) argues that as castration was virtually unknown in pre-Muslim India, the term 'pandaka' was metaphorically used for a weak or pusillanimous person, similar to that of 'has no balls' as expressed in English. Zwilling further points out that the pre-Buddhist Artharva Veda distinguishing pandakas from ordinary men and women implies that they were transvestites. However it also needs to be noted that non-human, and animal pandakas are mentioned in the Vinaya texts as well.

107. Parajika Pali (The first book of the Vinaya Pitaka): page 83. Buddha Jayanti Tripitaka Series.1959.

108. Peter Harvey.2000 -An introduction to Buddhist Ethics.

109. ibid

110. ibid

111. Ibid



Buddhagosha describes five types of Pandaka: (1) 'Asitta Pandaka': one who quenches his lust by fellating (2) 'Usuya Pandaka': one who quenches his lust through watching others have intercourse, or a voyeur (3) 'Opakkamika Pandaka': one for whom 'semen is expelled using some special means' (4) 'Pakkha Pandaka' – one who become sexually aroused in parallel with the phases of the moon, either becoming aroused during the fortnight of the waning moon (5) 'Napumsaka-Pandaka': a person with no clearly defined genitals, or a 'neuter,' a person born without sexual organs.

When looking at the above description it seems that the term pandaka was used to include all types of people who were considered sexually deviant. Categories 1, 2 and 4 could even include heterosexual persons even though this term is traditionally used for queer groups. Contrary to Leonard Zwilling's (1992) argument with Buddhagosha's five categories of Pandaka, it seems that the term Pandaka was used to include all people with deviant sexual behaviours in a single category.

However none of these categories or acts were considered as sins, rather they were interpreted as barriers to join the order of Buddha due to social constraints. It is a question whether these Vinaya rules were imposed due to the fact that transgender people are lacking spiritual capacity to attain nibbāna. A Buddhist monk in Colombo explained the phenomenon to the researcher as following:

"That's a different question. Buddha has prepared the order of Buddhist monks for the purpose of propagating a message (Dhamma). Rules for Buddhist monks were imposed on how to eat, how to wear the robes, how to speak, how to walk.... etc. Nothing of this is relevant regarding achieving nibbāna or understanding truth. When a Buddhist monk is trained, it is told 'appasādānan Pasādāya' to please those who are not pleased, 'Pasādānan Bhiyobhāwāya' to make those who are pleased into more pleased people. All these things were to propagate Buddhism, to take to the people. It is similar with considering physical requirements when a soldier is recruited to the army"

Also it is evident throughout the Vinaya Pitaka that Vinaya rules were established in sensitivity to the cultural norms that existed in India, thinking about the sustainability of the Buddhist Order. For example, Buddha's lack of willingness to establish the Order of Buddhist Nuns is in a way to conform to then-existing societal norms, and it is stated that the sustainability of the Buddhist Order would be halved if the Order of Buddhist Nuns was started. In the same manner, we need to look at the exclusion of gender and sexually variant groups from the Buddhist Order as it was a place of celibacy.

Meanwhile when it comes to practice and to the question whether these Vinaya rules are actually implemented in Sri Lanka, what we understand is that there is a general ignorance about these Vinaya sections on sexuality even among Buddhist monks. In the meantime, the values of Sinhala-Buddhist nationalism are vehemently against homosexuality. It seems that the values of Victorian morality have been now integrated into Sinhala Buddhist values.

In this context, sexual behaviours of all LGBTIQ persons are interpreted under the 3rd precept of 'kāmesu-micchācāra' (there are five precepts for laymen) as wrong and evil conduct with regard to sensual things. This idea has been widespread among many Buddhists in Sri Lanka and there is a general ignorance and there is a lack of a deeper understanding on what Buddhism says about LGBTIQ sexualities.



9.5 Mixed religious identities

Nine religious leaders including 4 Buddhist monks, 3 Christian priests, a Hindu priest and an Imam were interviewed in the study. Also 22 transgender persons were asked on how they perceive their gender identity and sexual orientation according to their religion.

The term transgender comprises a range of gender identities which are different from conventional male and female gender norms. In the meantime, it was surprising for this researcher to learn that a majority of transgender persons had mixed religious identities. Not only have they chosen their gender identities voluntarily, but they had done the same with other identities such as religious identity by challenging the conventional norm of having a single religious identity.

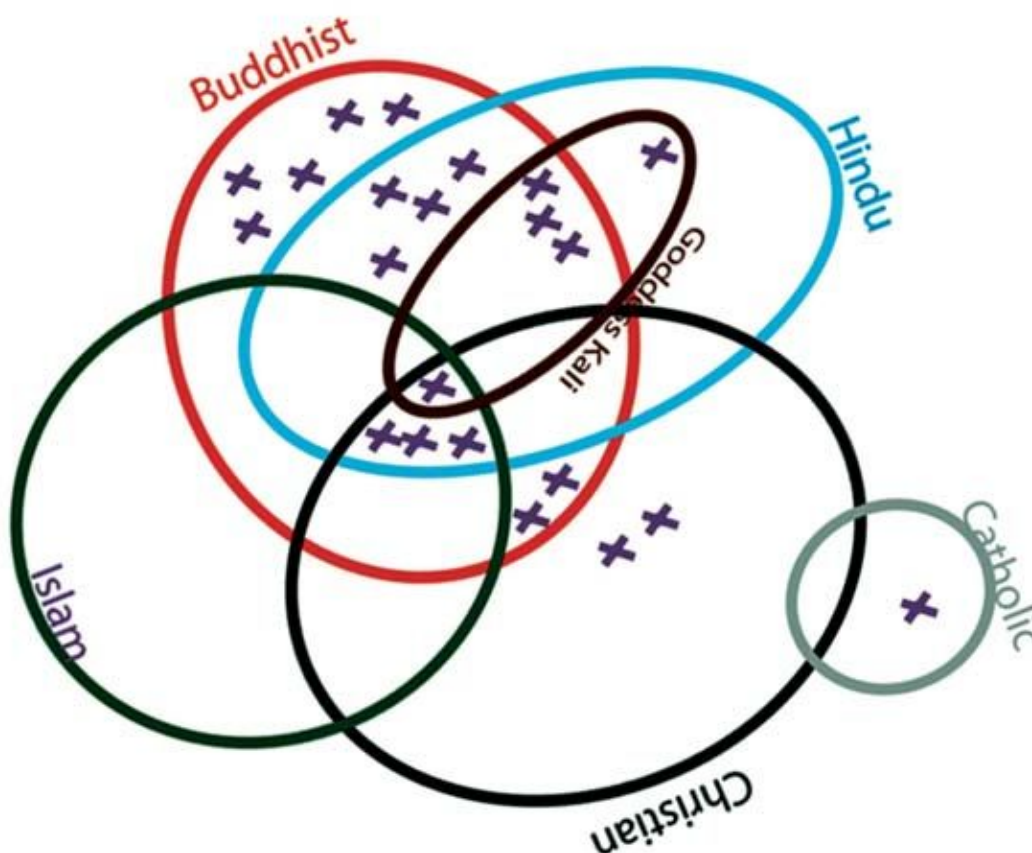


Figure 9.1: Mixed religious identities

Five transgender persons identified only Buddhism as their religion, while 7 transgender persons have faith in both Hindu gods and Buddhism. Only one transgender person believes only in Hinduism, while one is Catholic and two are Christians. Another two persons identified themselves as both Buddhist and Christian. There are five persons who have special faith in Goddess Kali and another four persons who identified as believing all religions. The four persons who identified with all religions also had special faith in four different faiths: goddess Kali, Christianity, Buddhism and Islam.



3CTGMTF whose parents were Muslim said; *"I feel similar with all religions, all gods. I feel same with Sinhala God, Tamil God, Christian God, and Islamic God. I go to temple, Kovil, Church as well as Mosque."* However she has stopped going to mosque due to the sexual harassments she had faced at the mosque when she was little.

5A-TGMTF not only refuses her religious identity, but also refuses her ethnic identity, as she never knew her parents, and was brought up in an orphanage from a small age. She said, *"Still I go to church, Kovil as well as Buddhist religious places. I think if we look at the world as a human being, we can't think that we have only one religion."*

However 4CTGMTF who was a Buddhist and who has experienced no discrimination at religious places also expressed a similar idea. She said, *"I believe in Buddhism as well as all religions. I have no feeling this religion is different, that is different. I have blessings from all religions and I respect all of them."*

2C-TGMTF also expresses a similar idea; *"I am a Catholic. However I have no difference. I have faith in all religions. I go to Buddhist temples, Kovils as well as Church. I have faith in Jesus Christ, God Allah, and Buddha."*

In case of 3KFTM, he had totally refused his parents' religion. He says, *"Though I don't go to churches, my parents are Christians. I'm going to Buddhist temples outside our village. I participate at Bodhi pooja; go to temple on each poya day. I even go to Munneshvaram Kovil two times a year. I have statues of God Kataragama, and God Vishnu in my room. I worship them with flowers, oil lamps, and fragrance sticks."* However he does not go to the temple in the village, and conceals his religious identity, same as he hides his gender identity from neighbours and relatives.

In case of 3A-TGMTF, she recognizes herself as a Buddhist. However she has more faith in Goddess Kali than in the Buddha.

All these multiple religious identifications differ from the conventional norms of religion and convey a sort of empowerment and liberation from restricted identities.

9.6 Faith in Goddess Kali and other Hindu gods

Twelve persons said that they have faith in Hindu gods, while five of them mentioned that they have strong faith in Goddess Kali. The belief in Goddess Kali and other Gods is usually attached with the belief that they are saved from difficult situations by the Gods.

5A-TGMTF especially mentioned that homosexuals and eunuchs are helped by Badhra Kali Mother. She said *"In this world, the closest person who protects me is the Great BhadraKali Mother. The homosexuals and eunuchs get special protection of Kali Mother."*

1C-TGMTF believes that she was saved by Goddess Mari Amman (Goddess Kali) when a gang of three wheel drivers tried to sexually harass her. In that case, Police had protected her following a call given by a neighbour who has seen the abuse.

3A-TGMTF believes another three wheel driver who revealed details about her sexual relationships to the chief monk of the temple where she took refuge during an emergency situation was shot dead after she prayed to Goddess Kali.

5A-TGMTF who was a sex worker also says that she felt like refusing some offers made by some men when she was about to face some difficult situations. She had also received money from clients unexpectedly. She believes these things happen due to the protection of Goddess Kali.



In addition to this, three MTFs mentioned that they prayed to God to make them girls in their childhoods. Two of them were Christians, and the latter was a Buddhist.

9.7 Internalized homophobia/ transphobia related to religion

During the discussion, five persons out of the twenty two expressed their internalized homophobia and transphobia related to religion. All of them were Buddhists and three of them were female to male transgender persons.

Buddhism virtually says nothing about sexual relationships among lay people, except for the third precept on sexual misconduct (Kamesu michchachara) in the five precepts recommended for lay Buddhists. Even though 'kamesu michchachara' is interpreted as sexual misconduct in the contemporary sense, it could be also given a broader interpretation as misconduct of the five senses: eye (seeing), ear (listening), nose (smell), tongue (taste) and body (touch) which include sexual misconduct also. Buddhism admires simplistic life styles and does not approve over enjoyment of sensual pleasures. Even if the narrow interpretation of sexual misconduct was considered, sexual misconduct means acts such as non-consensual sex, and child abuse.

Also some transgender Buddhists believe that they are born with transgender identities due to the sins (ill-karma) they have committed in their previous lives. 1K-TGFTM said, *"I actually think this is a huge sin I have committed in my previous life. Otherwise I won't be born as a person not belonging to either of two genders, and suffer like this"*. Sometimes the internalized homophobia expressed is quite complex, mixed with one's narrow understandings of religion influenced by trans-person's lived experiences of stigma and discrimination experienced for a prolonged period. 1K-TGFTM further said, *"one of my friend's mother said 'what you are totally doing is bringing suffering to parents'. With these sins we commit, we might be born in four great hells."*

2K-TGFTM also said, *"According to Buddhism, I don't think this is seen as a good thing."* Though Buddhism does not recognize homosexuality as wrong, this knowledge has not been passed to many Buddhists.

What Buddhism says about sex is scarcely discussed. Rather than sexual and romantic affairs celibacy is admired in the path towards nibbana, the highest status a Buddhist could achieve. 4C-TGMTF said visiting a temple with her partner could be a sin, even though she was doing it. If heterosexual lovers could visit the temple, could even take the wedding photos at the temple, what is wrong when same-sex or transgender lovers visit the temple together? Even though she visits temple with her partner, still she is unable in keeping her mind in peace due to her internalized transphobic feelings.

4A-TGMTF who had multiple sex partners was uncertain about what religion says, and what she feels is religion. She started saying *"These things are not suitable to be done, according to both Christianity and Buddhism."* However later she said having sex with persons who need it could be a service, or help and even a merit. The latter is quite controversial as well as revolutionary to decide sex work could earn merits (good karma) as a Buddhist. This statement could not be abandoned as an untruth as some professions such as medicine, teaching are socially gained acceptance as merit earning professions by Buddhists in Sri Lanka. It should also be noted that sex workers in Buddha's time have offered meals to Buddha, have been ordained in the Buddhist Order after leaving sex work. However on the other hand, Buddhism has seen sexual relationships as barriers to achieve nibbana as they are strong bonds of lay life. Urging a woman to yield to the sexual advances of a monk in order to gain merit is considered as one of the offences out of thirteen offences for Buddhist monks and requires a formal Sangha meeting (of monks). However Buddha has neither imposed vinaya rules for lay Buddhists, nor does he see having sex with a sex worker as a sin for lay Buddhists.



9C-TGFTM says even though homosexuality is wrong according to Buddhism, since they are not homosexuals (but transgender persons); it is okay to have sex with a same-sex person. His coping mechanism with his internalized religious homophobia and transphobia is justifying the religious homophobia towards lesbian and gay Buddhists while saving transgender persons have different identities from same-sex identities. This process of othering of stigma and discrimination is also a form of internalized religious homophobia and transphobia.

9.8 Positive interventions by the clergy

Three persons mentioned that they were helped by the clergy when they faced psycho-social issues related to their sexual orientation and gender identity. In addition an imam mentioned how he helped economically, a Muslim male to female transgender person.

6C-TGFTM said that he was given psychological support by a Christian Nun, when he was under depression following an incident when his lover revealed his details to others.

8C-TGFTM, a young MTF revealed how a Pastor in a Christian Church had positively intervened in helping her by talking to her parents, and making them understand what transgender is. Following the discussion with Pastor, she had received the support of the family and her gender identity was accepted by the family.

1G-TGFTM, a police officer mentioned how his suicidal thoughts went away after discussing his issues with a Buddhist monk.

9.9 Issues faced at places of worship

Three Buddhist FTM transgender persons stopped going to some religious places as they were asked to wear clothes suitable for women.

4K-TGFTM said he does not visit the village temple as it is required to wear a skirt or other female clothing. 9C-TGFTM said he even had an argument with the Buddhist Monk as he was asked to wear a Child Saree for the temple when attending Dhamma School. Subsequently he stopped attending Dhamma School.

1G-TGFTM, who was in the police force stated that he was asked by the Officer in Charge (OIC) to wear a white Saree to visit a local temple when they organized religious activities at the temple. Subsequently he had not attended such events organized by the staff, even though he liked to take part in such activities.

5C-TGFTM said her friends were called 'ponnaya' when she visited the church with her friends. However she felt safe when she went alone as her gender identity was not recognized by other devotees.

1C-TGFTM, who was a Hindu, said that she was purposely ignored by other devotees in the Pooja ceremonies where the participation of all devotees was customarily taken.

4CTGFTM mentioned that she faced sexual harassments at the Buddhist temple when some men tried to have sex with her in the toilet of the temple.



3C-TGMTF mentioned a sexual harassment she faced inside a Mosque when she was aged around 14 years. A group of young men had asked her to come upstairs to show her some fireworks on a festival day, and later they had tied her with a rope and had tried to harass her sexually.

4A-TGMTF also mentioned how she was abused by a Buddhist monk when she was aged around 10 years.

In addition, five male to female transgender persons mentioned that they had sex with religious leaders. In some cases, they were hired as sex workers by the religious leaders, and in a single case the religious leader had maintained a brothel house employing a male to female transgender person.

9.10 Issues in Media reporting

There were number of ethical issues in relation to media reporting on transgender persons such as publishing incorrect information, revealing personal information, stereotyping of the transgender characters, lack of space given to LGBTIQ activists in media, etc.

9.10.1 Stereotyping transgender characters as jokers

In several films and teledramas, transgender characters were stereotypically used as jokers, except in the film *Flying with one wing* which was produced a decade ago and *Frangipani* – a film which was not publicly screened in Sri Lanka. In almost all other films and teledramas which include a transgender character, this person was usually a comedy character, a crook, or both. This trend makes them further vulnerable to the discrimination and to be targets of humiliation.

For example, in *Constable Pugnasoma* (2014) a MTF transgender character is depicted as either a fool who betrays her friends and perceived husband or as a crook hired by an underworld gang. The gang leader gives the MTF transgender person (impersonated as the girl who was kidnapped) in exchange of fake money given as ransom by constable Pugnasoma (police). It seems that the transgender person was told (by the gang leader) that she was given in marriage to Pugnasoma. So, she comes and forcefully stays at Pugnasoma's house. After seeing her, Pugnasoma's wife leaves home along with the children. Pugnasoma's transgender wife does all the domestic chores including washing Pugnasoma's clothes, preparing food etc. When constable Pugnasoma requests her to take him to the gang leader's house, she accepts and takes him there. However when they were caught by the gang members, the MTF transgender person reveals the identity of constable Pugnasoma to the gang members, and makes no opposition with regards to harassments made to constable Pugnasoma. It seems that she was hired by the gang leader to bring Pugnasoma there. Throughout the film, her feminine gestures, and tone of speech were intended to entertain the people in a comical manner. In *Diya Matha Liyami* (2014) teledrama the MTF character's feminine gestures and tone of speech was also used in a comical manner.

In the '*Sikuru Hathe*' comedy film (2007), two MTF transgender characters were again depicted as jokers who were troubling '*Sirimal Ayiya*' the villain in the love story.

In the '*Pabalu*' teledrama (2010 - 2011) the character of 'uncle Bena', an MTF transgender person was depicted as a crook who cheats people and earns money by taking bribes while giving false promises to send people for foreign employment and to recruit children for well-known schools etc. Character of 'Uncle Bena' was a popular character among teledrama audiences. One of the prison officers interviewed in the study compared the character of a prisoner with the character of 'Uncle Bena'.



'Flying with one wing' (2003) by Ashoka Handagama was quite a different film based on a true story of an FTM person who was harassed by workmates, a medical doctor and neighbours and ultimately commits the murder of the medical doctor who continuously harassed him and possibly gets arrested as the suspect of the murder. However there was lack of discussion in Sri Lanka with regards to this film in the context of violence and harassments faced by transgender persons. The film *Frangipani* (2014) saw transgender behaviour as an act of protest against existing societal norms. This film could be introduced as the second Sri Lankan film which broke the trend of stereotyping of transgender persons.

However when it comes to literature, except 'Funny Boy' (1994) written by Shyam Selvadurai and its Sinhala translation 'Amuthu Ilandariya' by Sugathapla De Silva, no literary fiction as yet has been published about transgender persons in the context of Sri Lanka.

9.10.2 Lack of concern for the right to privacy of transgender persons

1C-TGMTF explained how she was chased away from her family when a programme about her life story was telecast. "I participated in an interview with a well-known Television channel ¹¹² in Sri Lanka. They initially said that my face would be covered in the telecast. However the programme was telecast with my face visible. After that, my parents asked me to leave home. So that's how I left home" she said.

With regard to the news of arrests of transgender persons; the news media have published transgender persons' names, residential area, photographs and other personal information making transgender persons further vulnerable.

Recently a local radio station, Neth FM, broadcasted an investigative radio programme where the journalist faked a love affair with an under aged transgender person, enters into marriage by organizing a traditional wedding ceremony with the aid of another transgender person – a florist¹¹³. The conversations between the journalist and the transgender person were broadcast and the personal information of the transgender person was also revealed in the programme. According to the programme, this underage transgender person was hired for sex work by another transgender person and the programme intended to reveal a case of child sexual abuse.

However the radio station showed a grave lack of concern in protecting the right to privacy of the victim at least. As the personal information of the victim was revealed, the transgender person was unable to stay at her house (most possibly after being chased away from family) and took refuge at a temple by ordaining herself as a Buddhist monk. The radio station continued to harass her by broadcasting another programme¹¹⁴ to discuss her ordination into the Buddha Sasana, and revealing information on the temple she received monkhood at. Subsequently she was soon disrobed.

However Child rights activists and other activist groups made no comment on this incident. The LGBTIQ Rights group faced practical limitations as they could be attacked by the radio station as well if they were the lonely voice on the issue. Further, since the nefarious activities of the Transgender Florist was also an issue, it was thought best not be associated with aiding a known brothel keeper. The young transgender person, the victim of this vicious and slanderous piece of journalism did not wish to be aided by the organisation either.

112. Vasantham TV, on 17th March 2012

113. Neth FM, 2013. <https://www.youtube.com/watch?v=vkhWORXsa5E> 'Balumgala 2013-08-19 Homo Sexual Marriage', accessed on 18th November 2014

114. Neth FM, 2013. <https://www.youtube.com/watch?v=JTV5VYHqnvM> 'Balumgala 2013-08-26 Can anyone be a Buddhist Monk?', accessed on 18th November 2014



The lack of concern about the rights of transgender persons among journalists and their lack of knowledge on the issues faced by transgender persons appears to be a great challenge. Actions must be taken to raise the awareness and sensitivity of journalists and other media personnel on the issues faced by transgender persons.

9.11 Society, culture and transphobia

Roots of transphobia mostly lie with religious and cultural intolerance and narrow perceptions on morality. Discriminatory practices, psychological, verbal and physical harassments to transgender persons are not just actions committed by individuals, but there is a culture of transphobia which continues to punish those who differ from the binary gender framework. The culture of transphobia is supported and continued by many actors including in media, art, history, language, literature, religious beliefs, cultural practices etc. Society as a whole, including all these actors, should take the initiative in changing these negative perceptions and cultural attitudes of the people and bring a positive change with regards to the human rights of the LGBTIQ people.

Also the culture of transphobia could not be separately considered as it could be linked with the other forms of discrimination and stigma (eg. oppression of women, minority ethnic groups, the poor, disabled persons, sex workers, and other such groups).

10. LAW IN SRI LANKA

"But twilight soon fell upon this bright day, followed by the monotonous nights of the Victorian bourgeoisie. Sexuality was carefully confined; it moved into the home. The conjugal family took custody of it and absorbed it into the serious function of reproduction. On the subject of sex, silence became the rule. The legitimate and procreative couple laid down the law. The couple imposed itself as model, enforced the norm, safeguarded the truth, and reserved the right to speak while retaining the principle of secrecy. A single locus of sexuality was acknowledged in social space..."

Michel Foucault (1976), *We 'Other Victorians' in the History of Sexuality Volume I*

Like many other countries under British colonialism, Sri Lanka too was introduced with Victorian morality through the agency of law. Even today many of the laws used for harassing transgender persons in Sri Lanka are remnants of Victorian morality and British Colonialism. The Sri Lankan legal system has proved to be a very obedient follower of the colonial rulers by continuing and further strengthening laws such as criminalization of homosexuality and the vagrants ordinance, even though the British have removed such laws from their own legal system.

Now 'Victorian morality' has been integrated into local values for centuries. For example, homosexuality and transgenderism are now being called, bad karma according to 'popular' Buddhism, and 'LGBT' sexualities which Western rulers tried to repress are seen as malicious 'foreign' identities introduced by 'Western' and 'Colonial' powers.

The laws affecting transgender persons need to be discussed in the light of the history of laws, their utilization against transgender persons, as well as the attitudes of law enforcement officers, lawyers and society.



In this research, transgender persons were interviewed on their experiences and attitudes regarding the law, law enforcement officers and police and prison officers were interviewed on their attitudes towards transgender persons. Also several lawyers working on human rights were consulted on the legal issues faced by transgender persons. The discussions were mainly focused on the human rights of transgender persons, constitutional protection, criminalization of homosexuality, vagrants law, impersonation law and police harassments experienced by transgender persons. In addition, the views of the lawyers regarding social issues faced by transgender persons were also discussed.

10.1 Protection of the law

Transgender persons do not come under equal protection of the law due to their underprivileged, criminalized and misunderstood situation. Their gender identities are not accepted by the law itself. Except transsexuals - those who have changed both their body and legal documents to the new gender - all other transgender persons (and also gays, lesbians and bisexual persons) are still criminalized under 365 A of the Sri Lanka Penal Code criminalizing homosexuality. It must be noted that the gender of the transgender person who does not undertake the gender transition process is still recorded as the sex at birth. A majority of transgender persons who cannot afford the sex reassignment surgeries and those who are not ready to go through gender transition process due to societal stigma and other reasons remain criminalized under 365A.

A human rights lawyer in Colombo, Lakshan said, *"Their human rights are violated by the law itself. Their rights are violated everywhere, in workplaces, educational institutes, when walking on the roads or travelling in public transport. They are one of the most oppressed, unequally treated, marginalized communities who have become third class in society through no fault of their own."*

Another human Rights lawyer based in Colombo, Chinthaka said, *"In Sri Lanka it is well-accepted that everybody is entitled to equal protection of the law. However transgender persons do not come under the equal protection of law due to the existence of these archaic laws and the interpretation of law on moral dimensions existing in society."*

Shenal, another lawyer saw this as a status of lawlessness in Sri Lankan society rather than discrimination specifically targeted at the transgender community. However he also admitted to the high vulnerability of transgender persons towards human rights violations. He said; *"I think there is no equality of law for anybody in this country. This is a special group. Existing laws are only for the purpose of limiting their human rights, there is no law to protect their human rights. They don't receive the equal protection of the law. Even if they went to the police they are called 'ponnaya'¹¹⁵."*

Talking about how transgender persons are treated in Sri Lanka, Lakshan said, *"I would like to say it is highly immoral. They are treated as persons who don't have any value as a human being. They are only sexual targets with no acceptance in society. Actually a very few have overcome this situation due to their personal dedications, amidst many difficulties."*

Mentioning about International Human Rights Documents, Chinthaka said according to the UDHR (Universal Declaration of Human Rights), nobody should be treated differently. If all other human beings are entitled to the principle of non-discrimination, transgender persons are also entitled to it.

A senior female lawyer aged 67 years with over 40 years of experience as lawyer in civil law said; *"I don't think they get equal protection of the law. Especially, they don't get employment."*

115. A derogatory Sinhala colloquial term for a homosexual



She further emphasized the importance of changing the law, as a prerequisite of protecting their human rights. *“The law needs to be changed. If the law says this is illegal, how can the law protect them? They don’t have any protection. They can’t go to the court. If they go, their transgender identity comes out. Nothing can be done without changing the law.”*

This study found her observation to be quite correct when analyzing the gross human rights violations and experiences of violence faced by transgender persons and their lack of willingness to make police complaints.

10.2 Protection from the constitution

The Fundamental Rights Chapter in the Sri Lankan Constitution mentions that all persons are equal before the law (article 12.1) and that no person shall be discriminated on the ground of religion, language, caste, sex, political opinion, place of birth or any such grounds (article 12.2). It seems that the term ‘any such grounds’ can include sexual orientation or gender identity.

Even though no court has yet interpreted the term ‘any such grounds’ to include sexual orientation and gender identity, Ms. Bimba Jayasinghe Thilakaratne, then Additional Solicitor General with the Attorney General’s Department in Sri Lanka, representing the Government of Sri Lanka in Geneva stated to the Experts Committee reviewing Sri Lanka for the ICCPR of 7th October 2014 that Article 12.1 ensures equality for sexual orientation and gender identity, and Article 12.2 - Laws discriminating on the grounds of sexual orientation and gender identity are unconstitutional ¹¹⁶.

10.3 Vagrants ordinance¹¹⁷

The Vagrants ordinance is the main ordinance used by the police to arrest transgender persons, sex workers, beggars etc. Enacted in 1841, this is one of the oldest ordinances introduced by the Colonial rulers¹¹⁸.

The ordinance mentions that persons who behave in a riotous or disorderly manner, who wilfully refuse/neglect to engage in any employment and wander in any public spaces, beggars, common prostitutes, wandering persons who lodge outside houses or in unoccupied buildings, persons accosting or addressing another person against his will and to his annoyance in a public space, can be arrested without a warrant. Also Sec. 3 (b) of the ordinance states that ‘every common prostitute’ wondering in a public street or highway can be arrested. As, the ordinance does not define ‘every common prostitute’, there is more of a risk that transgender persons can be arrested or detained according to the interpretation of the police officer.

A police officer in one of the main police stations in Colombo mentioned that they arrest male to female transgender persons on the street during the night police patrols and when police receive anonymous phone calls to the 119 emergency police complaint line saying that such persons are troubling the public. The researcher then asked whether they actually trouble people. The police officer said *“Actually they don’t trouble any person. They don’t drag other people’s hands and ask to have sex. There are people who don’t like them. Such people give phone calls to 119”*. It is highly possible that police emergency

116. EQUAL GROUND press release on 15th October 2014, ‘Positive outcome at the UN!’

<http://equal-ground.org/news/equal-ground-press-release-positive-outcome-at-the-un> accessed on 23rd of October, 2014

117. http://www1.umn.edu/humanrts/research/srilanka/statutes/Vagrants_Ordinance.pdf accessed on 21st Oct 2014

118. Ajith Rohana et al. (2011) Laws Concerning Commercial Sex and HIV AIDS Prevention



phone line might receive false complaints from homophobic and transphobic persons. A Police officer's ability to arrest transgender persons on the street without a warrant, having no proper procedure or even no willingness from many police officers' to confirm whether the complaint is true or not makes transgender people more vulnerable. Often if they have cross-dressed, they are usually judged as sex workers.

The act further mentions a person soliciting another person for illicit sexual intercourse, indecency, any person found committing gross indecency, a person found in any public or private enclosure without permission could be punished with a one hundred rupees fine or/and imprisonment not exceeding 6 months. In *Dharmadasa vs Thiadoman* 56 NLR 278, the court gives a very wide interpretation for the word 'soliciting' stating that it is not required to solicit willingly or forcibly and even an indirect solicitation is sufficient for the commission of an offence. Even when an invitation was made to have sex at a public place expressly or implied, the legal ingredients are fulfilled. In *Leembruggen vs Silva* 34 NLR 56, the court held that illicit sexual intercourse is subjected to indecency¹¹⁹.

Further according to the ordinance, if the offender is a female, she should be detained in a detention house instead of a general prison in Sri Lanka. In March 2004, when the Human Rights Commission visited Methsevana Detention Centre following a complaint made by the Institute of Human Rights, it consisted of 278 Women, 16 Children and 18 Mothers with children with a total of 312 inmates. Out of them, 73 women were mentally unsound¹²⁰. Also there was lack of clarity to when women can be released and often children below the age of 5 were kept with mothers in these facilities¹²¹. There are no statistics regarding the number of transgender persons arrested, however interviews conducted with transgender persons, police officers, and also previous studies (Miller 2002, 2012. Nichols 2010) conducted in relation to male sex workers and the nachchi community show that there is ample evidence to decide that transgender persons are being arrested, harassed, and detained under this law.

The Vagrants law was seen as a remnant of British Colonialism which needs to be repealed now. Shenal said, *"This is a law brought by British Colonialism. This is not appropriate for Sri Lanka. Any person should have the freedom to walk on roads, even though one does not know where one goes. It only matters, if anyone attacks the vehicles, or houses etc. If there is a freedom in this country such laws needs to be totally eradicated from Sri Lankan legal system."*

Lakshan also expressed a similar idea, saying that the existence of such laws is an issue for the human rights situation in Sri Lanka. *"You can be loitering, I am too. This is one of the oldest laws which is currently still in use. If such old laws are not updated, Sri Lanka will encounter a number of issues regarding both collective and individual rights of the citizen."*

Shenal mentioned this law was originally initiated to arrest Tamil estate workers who move outside the estate during British colonialism. He viewed utilization of this law to arrest sex workers, their clients and for other various purposes as a problem, as this law is not originally prepared for such purposes. Also, he said the first lawsuit he appeared in was an arrest of a female sex worker under the vagrants ordinance. Since she was caught for the third time under this act, she was imprisoned. He further mentioned that although maintaining a brothel and trafficking of persons for sex work is illegal; there is no single law where street sex work can be considered an offence. In this study several interviews were conducted with male to female transgender persons who work as sex workers and it was found they are more vulnerable to police violence due to three major reasons: criminalization of homosexuality, stigma towards gender identity as well as sex work.

119. *ibid*

120. IHR, 2004. http://www.econsortium.info/cha/Methsevana%20Detention%20Centre_IHR.pptx accessed on 21st Oct 2014

121. Women and Media Collective, 2008.

http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/LK/WMC_LKA_UPR_S2_2008_TheWomenandMediaCollective_uprsubmission.pdf accessed on 21st Oct 2014



10.4 Cheating by personation (Section 399 of the Sri Lanka Penal Code¹²²)

Several lawyers mentioned the use of section 399 to arrest transgender persons as a misinterpretation of the law.

"That is not something relevant to this. Cross-dressing is not an impersonation. Now there are lots of women who wear trousers. If this interpretation is true, all those women would be impersonators. If I want, I can wear a Saree. It's not an impersonation. Though it can be interpreted as impersonation in a narrow sense; it cannot be interpreted as impersonation in a broader sense. Even though cross-dressing cannot be called an offense, the police usually push it as an offence. However such interpretation can be legally challenged," said Lakshan.

Shenal also expressed a similar idea, saying transsexuals' crossdressing and change of bodily organs as a genuine need rather than an impersonation. He said, *"A transsexual is not a person who is impersonating another person fakely. They actually change their appearance and bodily organs for a genuine need. No arrest or prosecution can be made against transgender persons under this section. This law can be used in some contexts, for example; impersonation as a medical doctor or impersonating me by another person. In case of a transgender person, this law cannot be used."*

The penal code section 399 states - 'A person is said to be "cheating by personation" if he cheats by pretending to be some other person or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such person really is ¹²³.' Under the section an explanation is given mentioning 'the offence is committed irrespective of the individual personated is real or an imaginary person', also two illustrations are given (a) pretending to be a rich merchant of the same name and (b) pretending to a person who is deceased.

Gender impersonation is neither clearly mentioned nor is it said in the illustrations mentioned under section 399 in the penal code. It seems that the gender impersonation is interpreted as an offence using the explanation which says that the offense is committed even when an imaginary person is impersonated. Interpreting cross-dressing as impersonation is a serious inaccuracy in case of transgender persons as it is part of the expression of their true identity.

However a research conducted by the Women's Support Group (2004) says several cases of "impersonation" and "misrepresentation" have been brought to court, where women were discovered to be "disguised" as men and their "true sexual identity" exposed to the public. Similarly, transwomen have also been arrested for "misleading the public"¹²⁴.

122. Penal Code of Sri Lanka http://www1.umn.edu/humanrts/research/srilanka/statutes/Penal_Code.pdf accessed 22nd Oct 2014

123. Ibid

124. WSG, 2014. Not gonna take it lying down: Experiences of violence and discrimination as told by LBT persons in Sri Lanka



10.5 Criminalization of Homosexuality, impact on transgender persons

The Law criminalizing homosexuality, section 365 of the Sri Lanka Penal code was originally introduced by the colonial rulers in the 19th Century. This provision or similar provision, understood as prohibiting homosexual anal intercourse are presently in force in many former British colonies in Asia¹²⁵.

Further, in all the sodomy laws in South Asia except in Sri Lanka; lesbians (including FTM transgender persons who have not changed their documents according to their new gender) remain outside the scope of the law, which however only means that lesbianism is more severely proscribed through social and moral sanctions¹²⁶.

Section 365 originally introduced by the British colonial rulers states:

“Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be punished with fine and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of ages shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for injuries caused to such person.

In 1995 section 365 of the Sri Lanka Penal code was amended as:

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

There is an explanation below the section 365 stating that penetration is sufficient to constitute the carnal intercourse necessary for the offence. As penetrative sex usually does happen in private settings, beyond the knowledge of police officers, the police find this section not useful. And also should be noted that this act was only used against male homosexuality before 1995.

In 1995, the provision 365A was added to section 365 criminalizing female homosexuality and it used a wider term called ‘gross indecency’ instead ‘carnal intercourse’ as technically there are difficulties in proving penetration in case of female homosexuality. However the term gross indecency is not given a definition or any explanation. So it can be technically used against any sexual activity or anything interpreted as ‘indecent’ including heterosexual sexual acts. Hence many lawyers expressed their doubt and uncertainty on which acts are criminalized and which are not under this section.

“The term gross indecency is wide. I don’t know how they arrest practically and after seeing which act,” said a senior female lawyer. Lawyer Lakshan said, *“The term gross indecency has not been defined anywhere. Under 365 A, it is not mentioned whether same sex acts are criminalized. It is problematic which sexual act is unnatural and which one is natural. Even sexual acts between heterosexual couples can be criminalized according to this section.”*

125. Douglas E. Sanders, 2009 ‘377 and the Unnatural Afterlife of British Colonialism in Asia’ in Asian Journal of Comparative Law vol 4(1)

126. Aditya Bondyopadhyay, 2011



Shenal said, *"This law needs to be changed, the term gross indecency needs to be interpreted. How can we look it? Can we watch the bedrooms of people? Even heterosexual sex acts can be indecent. However section 365A is better than 365, as it does not specifically mention whether same sex acts are criminalized or not."*

However taking into account the history of penal code section 365, and the homophobic culture in the country where political and other public leaders routinely direct hostile remarks at LGBTIQ communities, the term 'gross indecency' is interpreted as same-sex relationships in the public's imagination¹²⁷.

Chinthaka, a human rights lawyer working for a Human Rights organization in Colombo said *"These laws come from the Victorian era. In the case of laws criminalizing homosexuality, women were also included in 1995. Instead of removing these outdated laws, what we have done is making them stricter through amendments"*. The recommendation to decriminalize homosexuality ultimately resulted in further strengthening criminalization of homosexuality by including women too with the term 'persons' instead of the term 'men' under the new section (365 A) introduced into penal code in 1995.

However taking into account the history of section 365, and the homophobic and transphobic culture in the country, it is evident that section 365A was introduced to criminalize all sexual activities related to LGBTIQ persons and other non-heteronormative persons in a more rigorous manner. It should be noted that Sri Lanka has introduced more rigorous laws to harass LGBTIQ persons than its colonial laws, at a time when many other countries around the globe are accepting LGBTIQ rights, gay marriage etc.

There were a number of lobbying, advocacy attempts as well as international pressure to decriminalize homosexuality in Sri Lanka. As a result of such attempts, decriminalizing homosexuality was included in drafts 1 and 2 of the National Human Rights Action Plan for 2011-2016, but was removed from the final draft by President Mahinda Rajapaksa¹²⁸.

Section 365 B includes legal sections on grave sexual abuse which are not covered under the legal sections for rape. Section 365B mentions that grave sexual abuse is valid only when an abuse has happened *(a) without the consent of the other person; (aa) with or without the consent of the other person when the other person is under sixteen years of age (b) with the consent of the other person while on such person was in lawful or unlawful detention or where that consent has been obtained, by use of force or intimidation or threat of detention or by putting such other person in fear of death or hurt (c) with the consent of the other person where such consent has been obtained at a time the other person was of unsound mind or was in a state of intoxication introduced by alcohol or drugs.*

However with regards to section 365 and 365A, above limitations are not considered. It needs to question why the concept of consent was only introduced with regards to section 365 B.

Section 365 and 365A are not only limited to criminalizing homosexuality, but are also used in the context of homosexual rape, abuse and child sexual abuse. It needs to be questioned why homosexual rape and heterosexual rape, or heterosexual child abuse and homosexual child abuse need to be separated and included in separate sections.

127. *ibid*

128. <http://sundaytimes.lk/110911/Columns/cafe.html> accessed on 31st October, 2014



10.6 Other laws affecting transgender persons

Chinthaka further said that police harassments against transgender persons will continue until an attitude change was made by the Police staff. Repealing one law only gives opportunity to find another law to harass transgender persons (and LGBTIQ persons in general). *“Transgender persons will remain criminals, even though the existing laws are repealed, as far as there is no attitude change made among Police officers. The police will use other laws existing in the country to harass such persons. For example: prevention of terrorism act”*

In the recent post-war period, it was used to arrest and detain human rights defenders, journalists and critiques of the government. Even though there is not enough evidence to say whether the Prevention of Terrorism Act is currently used against transgender persons, there was one incident where an LTTE suspect in Vavuniya had escaped from a hospital by impersonating a woman¹²⁹.

In many contexts, transgender persons are not considered different from homosexuals. Due to their gender identities, they are stereotypically judged to be homosexuals. They become easy victims of homophobic violence and discrimination from a number of parties including their own family, law enforcement and public.

The Brothel house ordinance can also be possibly used against transgender persons, even though there is no single agreement whether it can be interpreted in the case of a street sex worker. However one lawyer mentioned that some argue that a street sex worker could be considered a mobile brothel house. Many arrests of male sex workers are not made usually when a sex worker is found committing an act of sex, but mostly when they are waiting on roadsides at night. This was confirmed by the police officers themselves in discussions with the researcher.

A lawyer criticizing the arbitrary arrests made by the police said, *“Many things happen, according to the wishes of the Police officers. First they arrest the persons, and then look for the legal sections to file the lawsuit”*¹³⁰.

Shenal mentioned that adoption laws might affect transsexual couples, as adoption is only permitted for heterosexual couples.

Another lawyer mentioned that transgender persons could go to labour tribunal in the case of labour rights violations due to their gender identity. However no transgender person interviewed had taken such steps against their employers even when they were dismissed from their employments due to issues related to their gender identity and sexual orientation.

10.7 Social attitudes

While law in the country provides an institutional base for the existence of homophobia and transphobia, the social attitudes are the greatest challenge with regards to repealing these archaic laws and the many human rights violation issues faced by transgender persons.

129. <http://ada.lk/adaadmin/%E0%B6%9A%E0%B7%8F%E0%B6%B1%E0%B7%8A%E0%B6%AD%E0%B7%8F-%E0%B7%80%E0%B7%99%E0%B7%83%E0%B7%8A-%E0%B6%9C%E0%B6%AD%E0%B7%8A-%E0%B6%9A%E0%B7%9C%E0%B6%A7%E0%B7%92-%E0%B7%83%E0%B7%90%E0%B6%9A%E0%B6%9A/> accessed on November 9, 2014

130. 1-LAWCMB



In Sri Lankan society there is a lack of discussion on sexuality in general. *“These things are not even discussed in universities. There is a strong global discourse on sexuality which unfortunately hasn’t reached the Sri Lankans due to their conventional ideas,”* a lawyer said. Further explaining he said, *“Even among journalists, the academic community and lawyers, there are stereotypical attitudes towards transgender persons. It is not an easy process to change such a community. It is doubtful whether LGBTIQ organizations have understood this gravity.”*

“Obviously they have been discriminated and marginalized. A practical example everybody knows is in schools. If there is a boy who walks like a girl, he is usually humiliated. Words like ‘ponnaya’ are inflicted on him,” another lawyer said.

Some of the lawyers mentioned the developments that had happened with regard to transgender rights in the South Asian region especially in India and appreciated them as progressive trends in the region.

Shehan said; *“I appealed for a legal case related to a sex worker. She had a child, and she said she is doing this since she has no other income. If I appeared for a case related to a transgender others will look at me with a bad eye.”* This statement suggests that some lawyers might not undertake lawsuits related to transgenders due to negative attitudes existing in the society.

10.8 Possibility of Fundamental Rights Petitions

The possibility of filing fundamental rights petitions in case of rights violations of transgender persons was also discussed. Even though they accepted the possibility of filing fundamental rights petitions, they also mentioned it was a highly complex process which also has several challenges especially non-recognition of third gender identity in Sri Lanka.

A human rights lawyer said; *“If fundamental rights are violated, one can go to the Supreme Court. However the process is complex. If they can prove that their fundamental rights were violated due to their transgender status, they can get a solution.”*

Another lawyer said even though it is mentioned in the constitution that nobody should be discriminated on the basis of race, ethnicity, caste, sex etc., it is doubtful whether gender identity is included under this section. For example, in some countries, when applying for residency, it is generally asked whether the applicant’s gender is male, female or other. In Sri Lanka it is only female and male gender categories that are mentioned in all legal documents.

10.9 Harassments from Police and issues related to Protection of Law

12 out of the 22 transgender persons interviewed have experienced violence from police due to their gender identity. Five persons have not gone to the police when they faced physical attacks, blackmail, and an attempted rape due to their gender identity. Two complaints were not accepted by the police (a) when a group of boys had attacked a transgender person with tomatoes, and (b) when a transgender person had lost her passport. One MTF transgender person was successful in getting the help of a police officer through a personal contact, when she faced an issue related to blackmail though she was afraid in officially complaining to the police. In three incidents, the police have actually helped transgender individuals to secure their rights



10.10 Using derogatory terminology (Ponnaya) by the Police

Police officers have called transgender persons 'ponnaya' to their face. 'Ponnaya' is a derogatory term in Sinhala for a homosexual person meaning lack of masculinity or passivity in sexual or social relationships. All the persons who were called 'ponnaya' by the police were male to female transgender persons.

1A-TGMTF was at Nuwara Wewa in Anuradhapura (an area considered to be a cruising spot for gay men), when she heard a police officer pointing her out to another police officer and saying '*mun ponnayo ban (these are ponnayos)*'. Then the latter has said "*I know one of them. He is from a good family in our village*"¹³¹.

5A-TGMTF and her fellow transgender friends were called 'ponnayas' when they went to the police to appear for bail on behalf of their fellow transgender sex worker who was arrested the previous night by the police.

"When we entered the police station, at the entrance there were civil security officers. They looked at us in a demeaning way and said 'Here see... A bunch of ponnayos have come'. Then we went to the terrorist investigation division and asked for information 'we haven't brought any ponnayo here. Nobody here has sex with ponnayos' they said. Again when we got our friend released, the police officers said 'Ponnayo, don't go to have sex on streets again. Next time, we will put your entire group inside (prison) with a packet of drugs.'"¹³² Putting drugs and making false charges for those who spoke against the military, police or government is a popular mechanism used by the police in recent years. This mechanism is used to arrest well known criminals, sex workers as well as opponents of the police and government including journalists, human rights defenders etc¹³³. This threat of the police officer to arrest the transgender persons on false charges has to be considered seriously in this context. 2A-TGMTF had swum across Nuwara Wewa (a large reservoir) when the police tried to arrest her when she had been walking on the shores of Nuwara Wewa saying that she will be put into prison with a false charge of owning a packet of drugs.

6A-TGMTF also reported a similar incident of being called 'ponnaya' by police officers. Along with several other friends who cross-dress, she had gone for a musical show in a town in Gampaha District. As some men had tried to harass these transgender (MTF) persons, police have brought them to the station claiming it was for their own protection. However they were put inside a cell. In the morning they were shown to everybody as 'ponnayos found at last night's musical show,' and then released without any charge. Also apparently no action was taken against the men who tried to attack them.

In another incident faced by 5C-TGMTF, the policemen had exclaimed 'ah! Me ponna wesiyakne (*this is a ponna sex worker*)' when she was walking on the road along with another transgender person after attending a musical show.

131. 1A-TGMTF

132. 5A-TGMTF

133. Ganja accusation against tamil journalists who were travelling for a media training

<http://www.thesundayleader.lk/2014/07/27/fmm-says-workshop-disrupted/> accessed on 10th November, 2014 and, Ganja accusation against Rahamathulla, a journalist in Batticaloa after he reported an incident related to a local politician's son

http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=91736 accessed on 10th of November 2014



10.11 Sexual harassments, demanding sexual and other bribes by the police

One MTF Transgender person mentioned that she has offered sexual bribery to the police, when she was caught having sex with another man. *"I was caught by the police, when I was having sex with another man nearby the Wewa (tank). They released the man and detained me. Then they said 'now we are going to take you to the station'. I said 'you can't only take me to the station. You should have taken the other guy also. Why do you need to take me without any evidence?' They said 'your mouth is too much, shut up it'. Then they said 'do you like to take ours (suggested to have oral sex with us) also?' I refused it. 'If you say 'no', we will take you to the (police) station.' Then they shouted at me 'ganin, pakayo (take it, fucker). I was afraid, and agreed to have sex with them. One person had anal sex with me while other one had oral sex. After that I was released'¹³⁴*

Another three transgender persons mentioned other occasions where police have asked for sexual bribes from them. In two occasions police have asked such bribes after supplying protection to transgender persons at emergency situations.

For example, 1C-TGMTF's family was supplied with police security when the family members faced a threat from an underworld gang. After two weeks, following the incident, they had asked the transgender person for her phone number and she had given it. Subsequently, the police officers have continuously harassed her by making phone calls requesting sexual and other favours as a gratitude for supplying police security to their family.

In case of 5A-TGMTF, she was caught by the police for trying to have sex in a public toilet in a railway station. To release both of them, the police accepted a mobile phone, and one thousand rupees from both offenders. After receiving the bribe, the policemen further asked who the active and passive partners were. Then 5A-TGMTF had said that she is the passive partner and she is even ready to have sex with them if they are ready to give her two thousand rupees instead of the thousand rupees note taken from her. Then the policemen had said 'we won't have sex with ponnayos'. Then she has quickly replied saying 'if so, is it good to accept money from the ponnayao?' and has run away from them.

3C-TGMTF also reported another incident of detention at the police station for getting into a three wheeler to travel home from an area considered to be a gay cruising spot on the suspicion she was engaged in commercial sex work. The police arrested her and the three wheel driver who offered her a lift home. The three wheel driver was put into a cell and she was asked to sit on a bench in the police station. Throughout the night police officers had asked her to have sex with them to release both of them. She continuously refused to offer them sexual bribes; however both of them were released the next morning after only getting their signatures and without any charges. 3C-TGMTF reported another incident of where a police officer has asked for sex while she was walking on the road and she has refused. Subsequently the police officer has asked her to get into the police jeep. However she had escaped by running and hiding among the crowd.

5A-TGMTF reported another case where she had to paint a room in the police station to get released. She was arrested for loitering in an area where another female commercial sex worker and a male client had had sex. Both of them had escaped from the police officers but the transgender person was caught as the scapegoat. When police conducted the raid, they did not find any sexual fluid on her sexual organs, or any evidence to prove that she was engaged in a sexual act. However she was taken to the police and was asked to paint a room in the police to get released.

4A-TGMTF mentioned that she and her sexual partners were several times remanded by the police for chatting and spending time on the shores of Nuwara Wewa, a gay cruising spot in Anuradhapura.

134. 2A-TGMTF



2A-TGMTF reported an incident where she had escaped from the police by swimming across Nuwara Wewa reservoir when police tried to arrest her, saying that she will be imprisoned falsely for owning drugs. *"When the police were chasing me, I jumped into the water. There were two other friends of mine. They shouted and said, 'she is not such a person, having done a medical surgery recently, she has difficulties...' However I am afraid of the police. I swam to the other end of the Wewa."*

7C-TGFTM mentioned an incident where a male police officer had tried to take him into an abandoned house in the night when he discovered 'he' was a female. *"Time was around 11.30 pm. I was returning from work. Suddenly a dog barked and jumped on the road. Then a police officer came and stopped me and asked 'Where are you going?' I said I am going to the boarding house after finishing work. However he did not recognize me and thought I was a boy. He asked 'Do you know how many burglaries have happened in this area? Do you come as a spy?' and detained me. 'No, I didn't come to spy, I am coming after work. If you need to you can verify with my company' I said. He did not want to do that, but he asked for my company identity card from me. I didn't have it at that moment. So I said I don't have the company identity card and I gave my national identity card. He did not accept my identity as a female and said I am using a fake identity card, and took it from me. Immediately, I called a manager of my company saying that I was facing some trouble and was being detained by the police. Then the policeman snatched the phone from me. When he got to know who I am (born female) he wanted to detain me further. When he tried to check my body, I refused him saying that you can't do it without a woman police officer present. He tried to take me into an abandoned house nearby until a woman police officer came. I refused again and stayed on the road. Fortunately then, the manager whom I gave a call to arrived and I was released."*

10.12 Not complaining to the police regarding the harassments faced

Six persons out of the 22 interviewees reported that they were not confident to go to the police or to make a police complaint when they had faced issues relating to physical assault, attempted rape, blackmail, kidnapping and attempted abduction.

Two persons were victims of blackmail from their sexual partners. Both of them have not made police complaints on the issues they faced.

However, one person was able to warn the blackmailer through a personal friend in the police, when her sexual partner had stolen one of her educational certificates and was asking a sum of one hundred thousand rupees to return the certificate. In her case, even though she was not ready to make an official police complaint or to take legal actions against the blackmailer due to the transphobic culture in Sri Lanka she managed to settle the issue through her personal contact in the police. She says, *"Why I didn't complain is there is no approval for transgender people in Sri Lanka. Sometimes he (the blackmailer) might say he asked me to come there just for fun, and he did these things as he does not like me."*¹³⁵

The latter, 4A-TGMTF did not go to the police to make a complaint, nor did she have any personal contact in the police to assist her, when the blackmailing happened. Describing the issues she faced and the reasons not to make a police complaint, she said, *"there are some people who say when their work (sexual act) is done, 'you go away ponnaya. You are this type of person'. Sometimes they have demanded money, asked for my bank book. Even I have faced physical attacks two, three times from them... Actually I didn't go to the police. The reason I didn't go to police is... the law however says that we are doing a wrong thing. According to today's society also we are doing a wrong thing. Some people say we are spreading this to future generations and they can't even change the young generation because of us. There is some problem with it. So I didn't go to address this legally. I usually avoided such*

135. 2A-TGMTF



people (those who tried to blackmail me), always tried not to meet such persons again¹³⁶. It is evident she was not confident to take legal actions against the blackmailers due to the criminalization of homosexuality in Sri Lanka.

5A-TGMTF was kidnapped by an underworld drug dealer, while she was doing street sex work in Colombo. She was detained for two months inside a building, where she was given food and had to have sex with the drug dealer. When she escaped from his detention, she did not want to make a complaint to the police due to similar reasons mentioned above.

6A-TGFTM mentioned an incident where he did not complain to the police when he and two other transgender persons was physically attacked. 6A-TGFTM and two other transgender friends (an FTM and an MTF) came under this terrible physical attack in the middle of Nugegoda town - a Colombo suburb - by a group of young men. *"Bhashitha (FTM transgender), Dhanushka (Feminine gay man) and I visited a friend's house near Nugegoda and had a beer there. Dhanushka did not drink at all, I drank a little. Bhashitha was drunk. We walked from our friend's house to Nugegoda as there were no buses. Three young men started following us near the railway crossing in Nugegoda town. We didn't care much about it. However we heard the young men saying insulting things about Dhanushka. Meanwhile a man on a bike also followed us. When we entered a night teashop, they also followed us in. They followed us in a similar speed to us. So we felt that they are going to do something (bad). So I suggested taking a trishaw instead of walking. The other two said 'No, then they will think we did that in fear of them. We'll walk. We are not troubling anybody'. After sometime, we saw the young men who followed us were waiting by a hardware shop. When we reached there, they tried to drag Dhanushka by the hand. There, we had an argument and they started assaulting us. They assaulted me more, while they were trying to drag and take away Dhanushka. The other friend, Bhashitha had not yet started gender transition process, and so I felt it will be worse if they found out he is still a female. However during the fight, one attacker's phone fell down. So their attention went into searching the phone for a moment. With that we escaped and got into a trishaw and soon left the area¹³⁷."* The person on the bike continued to follow them, up to the next town where they changed trishaws. One of them had actually recognized the person who followed them on the bike and they had a feeling he sent the group of young men to attack them. 6C-TGFTM also mentioned that it seemed that the group of young men wanted to take the effeminate gay man away to have sex with him. Their continuous insulting words were directed at him, and trying to drag him away during the attack further confirms this opinion.

When the researcher asked why they did not go to police and make a complaint regarding the attack, 6C-TGFTM said *"One of us was an effeminate gay. The other is going to change her (his) gender. I have changed my gender. Neither of us can go to police because of our situations (sexual orientation & gender identities)".* The researcher further asked them how they arrived at this pre-judgment of not trusting the police, without actually going to the police. 6C-TGFTM replied saying, *"If someone attacked me while I am walking on the road and if I went to police and complained about it, the police will ask me the reasons for the attack. So I have to tell them these are the reasons. When I say to them, I know the person who attacked me, they will consider him a good person and I will become the offender. That's what they are doing. (They will say) because you have done this thing, this man has done this to you. There is a curiosity (for everybody) to know who you are."*

1K-TGFTM mentioned about a sexual harassment faced by him which he did not report to the police, due to several issues. The harassment has happened when 1K-TGFTM was looking for a specific medicinal herb and a trishaw driver has promised to help him find it. So the trishaw driver had accompanied him to a marshland where the herbal plant was found, according to him. In the middle of the marshland he has asked a kiss from 1K-TGFTM and he has refused it, saying he is not into same-sex relationships.

136. 4A-TGMTF

137. 6C-TGFTM



"There was no herbal plant in the place he mentioned. We were in the middle of the swamp. I started going back leaving him there. I was moving slowly, as my legs were getting stuck in the mud. He jumped on to me; making me fall into the mud. He was standing up while tightening me with his legs, and started scolding me with filthy words 'Did you think that I don't know you? You went to that school. You lied to me. We know you are woman. We have been planning to catch you. All of us in our gang wanted to know who you are. Now this is the opportunity. You are thinking that you are the 'man'.' Then he put his hand into my trouser from the backside and checked what is inside. 'Even a ponnaya has a penis and testicles. You don't have that either.' Meanwhile he was using all the female nouns in filthy language to insult me, which I don't like to mention here. 'You are walking on the road, assuming you are the 'man'. Even though you are wearing trouser, you have this, underneath the trouser. You are doing this. Now I need to do this and that to you. You go and file a case against me in police or wherever you like. People like you have to be caught and handed over to the police. You are cheating men, women, society and everything. You devil, I am married and I have two girls. My girls have never tried to become boys. They never wear trousers on the road. You devil, if you are born like a woman, stay like a woman. You can never become a man'¹³⁸". They continued fighting with each other even though the trishaw driver was stronger and 1K-TGFTM fell into the mud again and again. The driver had touched 1K-TGFTM's sexual organs and shown his sexual organs to 1K-TGFTM also.

By addressing 1K-TGFTM with filthy female nouns, by touching 1K-TGFTM's sexual areas and insulting him for not having a penis, and by showing his penis to 1K-TGFTM, he draws clear lines between the transsexual and him. He becomes a 'man' who has a penis, and 1K-TGFTM is not a 'man' according to him, because he does not have a penis. These phallagocentric views do not stop at this point as he also challenges the FTM to go to any police/ legal body to make a complaint. He also believes women who behave like men are a threat to the entire society and needs arresting.

After few hours of detaining him, finally the driver had released him saying "I will release you from here. But you have to bring me prostitutes. I have sex with both men and women. You have to travel in my trishaw. You have to find me both men and women. Otherwise I won't allow you to travel on this road. I will spread the news saying who you are. I will not stop here. I will even remove the trousers off of your friends, when I get the opportunity. Each time you go from here, the people in trishaws will talk about removing your trouser, they are planning it".

When looked at the demands of the abuser, it is evident that he is either a bisexual or a homosexual person. Research suggests homophobia is associated with the homosexual arousal¹³⁹. Suppression of homosexual identity could make some persons highly homophobic and transphobic persons. Also the abuser has the fear that his daughters will act in this manner. *'You devil, I am even married and I have two girls. My girls have never tried to become boys. They never wear trousers on the road.'* He might think that entering into marriage and having children establishes and protects his heterosexual identity. But, in his mind he is uncertain. His fear towards his girl children who might wear trousers and become boys may arise from his own suppression.

After this incident 1K-TGFTM had consulted two persons: his doctor and an officer from the Human Rights Commission (HRC) in Kandy. While the officer at the HRC had advised him to complain to the police immediately, the doctor had asked him to look at the both sides of the issue. Describing the reasons why he did not go to police, he said *"I was afraid that my life would be in danger as I usually walk alone on the road. They can do anything. It's not that he will get imprisoned. His friends will be outside. What can't be done by them? They can kill me, rape me or trouble my parents even."*

138. 1K-TGFTM

139. Henry et al 1996, 'Is Homophobia Associated With Homosexual Arousal?' in Journal of Abnormal psychology, Vol. 105 (3), 440—445 http://www.psychologytoday.com/files/u47/Henry_et_al.pdf accessed on 1st of November, 2014



1K-TGFTM has faced another incident of being attacked by a group of drunken men when he was walking with another friend to his house. In this case also, the attackers have threatened to remove his trousers, if he behaved like a man. In that case, he had complained to the police, however he had not revealed the true reasons of the attack and his identity as a transsexual. Due to the fear of being revealed as a 'transsexual man', he had agreed to an amicable settlement.

Two other transgender persons mentioned two other incidents where police have not accepted their complaints. In one case, the transgender person had complained about being attacked with tomatoes by a group of young men, and the police officer has considered it to be a joke. However later, when she made the complaint to a woman police officer, she has asked her to come and make a complaint to her if such an incident happened again.

In the second instance, the transgender person has gone to complain about his lost passport, and the police officer had asked him to wait for several hours saying he was busy. When the complaint was not accepted even after waiting for several hours, he had not gone to the police again.

10.13 Successful interventions by the police

3A-TGMTF reported an incident where the police had intervened to return the money robbed from her sexual partner, when she had complained of this to the police. In that case, the sexual partner was an army officer and the transgender person had introduced him to the police as a stranger who she met on the road, for whom he had offered a lift on his motorbike. The police had not only arrested the robbers (a group of young men), they had given them corporal punishments and taken all the money the young men had. The police had returned the amount of money robbed from her sexual partner (army officer) and they have kept the rest of the money for themselves. However, one of the police officer had asked sexual favours from the MTF transgender person, following the incident.

1C-TGMTF mentioned an incident in which police officers had saved her from a sexual harassment attempted by a trishaw driver along with two of his friends. When she was struggling with them, a neighbour who heard her voice had informed the police through a telephone call. Not only did the police officers save her, but had also accompanied her safely to her home.

5C-TGMTF mentioned an incident where she had complained to the police when two young men had thrown fire crackers into her home through the window at midnight on Christmas Eve. She had gone to the police wearing her night gown and has made a complaint. The police had taken urgent steps and remanded the young men. However she has agreed to an amicable settlement when the parents of the young men came and apologized to her.

10.14 Views of Law enforcement officers

The researcher conducted 9 interviews with law enforcement officers. Four of the interviews were conducted in four different police stations in Colombo, where more than one officer contributed to the discussion. Two individual interviews were conducted with two police officers currently working in Anuradhapura; another one individual interview was conducted with a retired police officer in Anuradhapura. Another two individual interviews were conducted with two prison officers.

All the police officers except one officer interviewed mentioned they had arrested male to female transgender persons and men who have sex with men (MSM). Most of them did not differentiate between MTF transgenders and MSM. Many were arrested as sex workers while loitering on roads and prosecuted under the vagrants ordinance.



A police officer from Anuradhapura said *"Mostly we arrest men when they loiter in dark places on streets in a suspicious manner. Since there is no sufficient evidence to prosecute under 365, usually we file the lawsuit under vagrants ordinance"*¹⁴⁰

A police officer in Colombo also confirmed this. He also mentioned that complaints against transgender persons are received through the '119' emergency phone line. Some arrests happened in relation to sexual behaviour in public toilets; *"Arrests usually happen on night patrols and when people call us and inform us through 119 that 'they' are troubling other people. There is a person from Anuradhapura. Legal cases were filed against her under the vagrant ordinance. There are number of such persons at the Colombo main Bus Stand. But no arrests have taken place in the last 2-3 months. However we have arrested and filed cases against 2-3 such persons within this year. In public toilets, homosexuals are arrested."* Again, this officer views MTF transgenders as homosexuals.

Two police officers mentioned complaints that came from the sexual partners of transgender persons regarding stealing of valuables after having sex with them.

Also another two police officers mentioned that they had released transgender persons after strictly advising them, since it is difficult to prove the accusations against them.

Many of them used derogatory terms such as 'ponnaya', 'pons' in speaking about transgender persons. Also many of them mentioned their behaviour, as well as gender transition surgeries are not suitable in a Buddhist country. For example, a Police officer in Colombo said *"In Sri Lanka, there are lots of homosexuals from the top level. The other thing is that Sri Lanka is an Asian Country. This is not suitable for our culture. Things should happen according to nature. Nature is men having sex with women and women having sex with men (started singing the sinhala song 'there is nothing in this world, that does not oblige the rules of the nature')"*¹⁴¹.

Many of them had stereotypical views towards transgender persons. For example transgender persons were recognized as persons who engage in employments such as cooking, beauty culture, hairdressing etc. Several of them also perceived that; promoting the human rights of transgender persons would increase homosexual activities, which are considered 'anti-social'.

The love between same-sex persons was seen with humiliation. One of the senior Police officers in Colombo laughed in a humiliating fashion saying, *"those two have eloped from houses to Anuradhapura, and have written a letter with blood saying that nobody can separate us"*. The same police officer also suggested if such persons need to have gender transition surgeries that a separate area should be made for such people without including them in the areas where other 'normal' people live.

In addition two prison officers were interviewed. One of the Prison officer mentioned that there are three male to female transgender persons, and two female to male transgender persons currently in the prison. He compared one of the transgender prisoners' characters with a transgender character in a television programme who was a 'crook'. Since the transgender gender category is not recognized in prison, it is highly possible that sexual harassments against transgender persons frequently happen inside prisons.

140. 1A-POLC

141. 2C-POLC



10.14.1 Recommendations of lawyers

Lawyers also brought several criticisms and recommendations regarding LGBTIQ activism in Sri Lanka. They mainly highlighted the need for a stronger LGBTIQ movement in Sri Lanka with public protests, media campaigns, and with partnerships with other activist groups.

Several lawyers emphasized the need of recognizing the third gender or other gender as an accepted gender category. *"We have to specify the 'other gender'. However there is no context for government to take such decisions. People who have need haven't come out. There is no public protest held, nothing is written to a newspaper. These things can be achieved if strong public discourse is built up in a similar manner how Tamil people raised their voices. Ultimately there is no difference in both cases, the only difference is it was ethnicity in that case, this is gender identity."*

Raising voices in parliament and the judiciary as well as building a stronger political campaign were seen as essential parts of a progressive LGBTIQ campaign in Sri Lanka. *"This is a big journey. Many people in the country needed to contribute for this cause. Being organized, and voicing for LGBTIQ Rights in parliament and judiciary is vital."*

Discussing issues related to the LGBTIQ community in the local languages with different communities with more participation from grass root level people were seen as a means of influencing government with regards to promoting LGBTIQ rights. *"If a discussion happens currently on LGBTIQ rights in Sri Lanka, it's only happening at top level, only in the language of English. However in India, this discussion goes to the grassroots. It does not seem that LGBTIQ rights groups are fighting continuously in Sri Lanka. On other hand, transgender people do not cooperate with other groups fighting for rights. So their fight has become isolated."*

The transgender community's lack of engagement with other human rights advocacy groups such as students' rights, labour rights, and ethnic minority rights groups was also highlighted. In the same manner, it was mentioned that there was a lack of willingness in the case of other human rights groups to engage in LGBTIQ activism related work.

Several other recommendations were made with regards to policy makers. Human rights promotion, amending outdated laws, repealing repressive laws such as prevention of terrorism act, changing societal attitudes towards rights of the transgender people were seen as primary actions to secure rights of the transgender persons. The importance of introducing new laws to protect transgender persons from violence, stigma and discrimination was also mentioned.



11. RECOMMENDATIONS

The common need of transgender persons was to have equal rights similar to other citizens in the country including equal protection of the law, access to employment, non-discrimination on the basis of sexual orientation and gender identity and being accepted by society.

In achieving rights for the transgender community, advocacy strategies hold a paramount importance. Especially, it needs to address the labelling of MTF transgender persons as sex workers. It is better if financial and psycho-social support could be supplied to the transgender sex workers if they feel that they need to leave sex work.

Working with politicians and government in order to raise LGBTIQ issues in parliament is important in order to enable legislature to be enacted to protect LGBTIQ persons. Media advocacy is an effective initial measure in sensitizing the government, and politicians as well as the public on the importance of LGBTIQ Rights.

Lack of information on gender transition processes, legal issues, as well as about the qualified professionals such as medical doctors, lawyers and experienced counsellors available was a gap. In a transphobic and homophobic culture, it is not easy to find trustworthy, well trained, well skilled, LGBTIQ friendly professionals when they are needed. Therefore it is recommended that a data base of such persons be maintained and access is made easily available for the transgender community.

Developing information toolkits/guides on the gender transition process and other health needs of transgender people, legal information on document changing processes (e.g. changing Birth certificates), and a guide on actions to be taken when a case of rights violation or arbitrary arrest happens to a transgender person are also needed to be considered.

It is highly recommended to use peer education and TOTs to increase knowledge on gender transition, document changing process, as well as legal issues faced by transgender persons.

Many transsexuals have faced issues in presenting their birth certificate at employment interviews as it includes the gender history of the person. Usually when such a birth certificate was presented at an interview, a number of questions were asked on the gender transition process and their gender history, without focusing on the qualifications related to the employment. After such interviews, many people have not been selected for employment even though they have more than the necessary qualifications. It is recommended therefore that sensitizing and educating businesses be undertaken and that a data base of Trans Friendly businesses is also initiated.

Discussions with the government bodies or looking for strategies to push government towards cooperating with LGBTIQ organizations to act in cases of violence reported to such organizations is an urgent need even though there are number of practical and legal limitations. In this research, it was evident that transgender persons have been facing violence, stigma and discrimination on a large scale. However the transgender community must be encouraged to make police complaints regarding rights violations faced by them, as well as necessary legal support needs to be supplied.

While laws criminalizing homosexuality and the vagrants ordinance needs to be repealed, new laws supporting document changing processes of transsexuals needs to be introduced. However advocacy and lobbying strategies towards changes in the law have to be planned carefully with sensitivity towards politics and the cultural barriers in the country, remembering the past experience in 1995 where the suggestion to decriminalize homosexuality ended up by imposing stricter laws on homosexuality



(including Lesbians within this law). Sensitizing parliament members on the issues of LGBTIQ community holds a paramount importance, as decriminalizing homosexuality was removed from the National Human Rights Action Plan by the previous president.

Due to cultural and legal barriers, many transgenders are not ready to come out as LGBTIQ persons openly. Issues related to internalized homophobia and transphobia appear to be huge challenges. While understanding these barriers, community activism must be promoted in order to gain rights for the LGBTIQ people in Sri Lanka.

Psychological stress, suicidal thoughts and suicide attempts were high among the transgender persons interviewed in the study. Supplying psycho-social support, counseling services for transgender persons is highly important. Even though EQUAL GROUND currently offers telephone counseling for LGBTIQ persons, many have relied on peer networks and personal friends for their counseling and psycho-social support. Identifying such groups and supplying training and capacity building for them is suggested while existing professional LGBTIQ counseling services¹⁴² need to widen its geographical coverage. Also the importance of counseling and the confidentiality of counseling process have to be communicated to transgender persons to encourage them to receive counseling when they experience psychological issues such as stress.

Many transgender persons have faced number of issues in relation to stigma and discrimination on the basis of gender identity and sexual orientation at workplace. Working with the corporate sector to develop and implement corporate sector policies on non-discrimination on the basis of sexual orientation and gender identity are very important.

Securing rights of trans-children also holds vital importance. Steps must be taken to protect trans-children from sexual, physical and psychological abuse. On the other hand, addressing rights of trans-children seems to impossible due to cultural, social, and legal barriers existing in the country. However strategies needed to be identified to sensitize parents, teachers and media on the issues related to child abuse, and long term effects of the suppression of identity.

Developing a guideline for journalists and media organizations on reporting issues concerning trans-children and LGBTIQ persons are very important. Some media organizations have published personal information of transgender people including their photographs without their consent in a manner harming their personal lives.

It needs to look for strategies to sensitize police and other law enforcement officers on the rights of transgender people.

Getting support of other human rights organizations to build the capacity of LGBTIQ movement is vitally important. Issuing joint statements, public petitions with the support of other human rights organizations on issues related to LGBTIQ community will be more influential.

Also many transgender persons reported that they faced number of difficulties including sexual harassments while using public toilets. Possibilities for having unisex public toilets at least at workplaces, restaurants, etc. must be looked into.

However ending the violence, stigma and discrimination faced by the transgender community only depends on building up a larger awareness and understanding on the issues faced by the transgender community amongst the general public and by changing the existing homophobic and transphobic cultural norms in this country.

142. EQUAL GROUND offers counseling services for over 10 years. However outreach of this service is limited due to geography, finances and the lack of interest by the LGBT persons themselves to use this service.



12.CONCLUSION

Violence, stigma and discrimination have become daily experiences for transgender persons since their childhood. They have experienced gross human rights violations including physical assaults, sexual harassments, inequality before law, arbitrary arrests and detaining, stigma and humiliation at public places, verbal insults, discrimination with regards to employment, being chased away from family etc. Many of these gross human rights violations have occurred in places such as police, hospital, school, and at their very own homes which generally supply protection to other people. Since their gender identities are not accepted by the society as well as within their own families, and they are treated unequally by the law, they are unable to break the cycle of stigma and discrimination they have been facing throughout their life.

The life experiences related to violence and discrimination faced by LGBTIQ community and transgender persons remains hidden from the rest of the society. In general, there is insensitivity on the issues of transgender persons among general public. Such insensitivity is caused by the transphobic societal norms existing in the society as well as lack of knowledge supplied to them on issues related sexuality. A public discourse on issues faced by transgender persons needs to be initiated with the support of media.

In the meantime, the issues in the transgender community such as internalized homophobia and transphobia, the high suicide rate and other psychological issues faced by them needs to be addressed. Suppression of their identities for long periods of time as well as stigma and discrimination could be the closest reason behind these psychological issues.

The criminalization of homosexuality, the use of archaic Victorian laws against transgender persons and other police abuses against transgender persons appears to be greater challenges in the path towards equality. It was shameful to mention that police officers themselves mentioned promoting transgender human rights will promote and increase homosexual acts in the country, so human rights for transgender people should not be given.

The famous statement by UN Secretary-General Ban Ki-moon at the event on "Ending Violence and Criminal Sanctions Based on Sexual Orientation and Gender Identity" in 2010 should be remembered here.

"Yes, we recognize that social attitudes run deep. Yes, social change often comes only with time. Yet, let there be no confusion: where there is tension between cultural attitudes and universal human rights, universal human rights must carry the day. Personal disapproval, even society's disapproval, is no excuse to arrest, detain, imprison, harass or torture anyone - ever."

When there is tension between cultural attitudes and human rights, universal human rights must carry the day. Hence it is vital to take immediate actions to end the gross human rights violations faced by transgender persons in Sri Lanka.



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ANNEX

RESEARCH QUESTIONNAIRE GUIDE A - TRANSGENDER PERSONS

Part 1- BASIC DETAILS OF THE INTERVIEWEE

- «.If you prefer please tell me your name. Otherwise please tell me how I can address you during the interview. Name (optional):
- «.What is your ethnicity?
- «.What is your religion?
- «.What is your mother tongue?
- «.What is your sex when you were born? Sex at Birth: male/female
- «.How do you recognize your gender? Gender identity (according to the interviewee) :
eg. Nachchi/ Man/ Woman/ Trans-woman/ Trans- man/ butch woman/ feminine man/ transgender/ Female to male trans gender/ male to female transgender/ transsexual/ transvestite/ cross dresser/ drag queen/ napunsaka / Androgyne/bigender/intersex/ do not know/ other please specify
- «.What is your Age?
- «.What is your highest educational qualification?
- «.What is your current employment?
- «.What is your Income level?
- «.Where is your Hometown?
- «.Are you in a medically supported gender transition process? (there will be a separate section to get in detail details)
- «.Where do you live now? Current residence:
- «.Who knows about your gender identity, sexual orientation or gender history : parents, family, relatives, friends, teachers, neighbours, geographical community/ village, workplace staff, public

Part 2 – CHILDHOOD

- «.How do you describe your childhood? Was it good? Or bad? Enjoyable or not?
- «.What was the economic and social status of your family?
- «.Do you have any special memories about your childhood?
- «.When did you start identifying yourself as a transgender person/ a person belonging to a different gender? At which age? Does it refer to any specific incidents or memories?
- «.After you started identifying your gender as a different one, how did you behave within home?
- «.After you started identifying your gender as a different one, how did you behave in the neighbourhood and community?
- «.How did your parents react to your behaviour?
- «.How did your neighbours react to your behaviour?



- «.Did your parents/ siblings/ relatives physically assault you due to your gender identity? If 'yes', how often did that happen? Please describe your experience in detail.
- «.Did anybody psychologically abuse you because of your gender identity as a child?
Includes emotional violence: blackmailing, not speaking, limiting association with friends, demeaning, humiliating, blaming, or any form of verbal abuse, threatening not to speak with, threatening to attack,
- «.Did you help your parents by doing domestic work? Why did you do it?
- «.Did anybody forced you to do any Domestic works such as washing clothes, cooking, etc. when you were a child?
- «.As a child, did you ever feel that you were discriminated within your own family?
- «.Did anybody sexually abuse or attempt to sexually abuse you when you were a child? Or as a child, have you ever had any sexual experiences including incidents happened with your consent?
- «.How was your relationship with your family members when you were a child?
- «.How was your relationship with your neighbours when you were a child?
- «.As a child, was there anybody to help you when you are at trouble? Especially if you've faced any bitter experiences of facing discrimination, violence due to your gender identity.

Part 3 – SCHOOL

- «.What are your achievements in school work including sports, aesthetic subjects, and participation in clubs, associations?
- «.How did the teachers react to your gender identity?
- «.How did the fellow students treat you?
- «.How did the senior students and prefects treat you?
- «.How did the parents of fellow students treat you?
- «.Tell us bit about Love romantic affairs – whether you had a love affair during the school time?
How was it started? Did you face any issues due to it?
- «.Were you able to complete your school education successfully? If not why?
- «.Do you have any special memories about school?

Part 4 - FRIENDS AND NEIGHBOURHOOD

- «.Do you have friends? Are they mostly from your neighbourhood? From school? Or from village/home town? Or from outside?
- «.Are they mostly LGBTIQ persons? Or heterosexual persons?
- «.Were you able to associate friends freely during your childhood?
- «.Are you able to associate friends freely as an adult?
- «.Are you able to associate friends freely when you are living together with your partner?
- «.What is the level of acceptance for your gender identity from your friends? Or nature of their reaction



- «.What is the level of acceptance for your gender identity from your neighbours and relatives?
Or nature of their reaction?
- «.Have you ever changed your residence due to any stigma, discrimination or violence came from neighbours or family members?

Part 5- HIGHER EDUCATION

- «.Have you received higher education? Details about higher education?
- «.How were you treated within the higher education institute?
- «.If you were unable to get into higher education? Why? Was there anything to do with your gender identity?

Part 6 - PLACE OF WORK, AND ACCESS TO EMPLOYMENT

- «.Did you have any difficulties in a getting a job?
- «.Have you ever felt that you were refused of a job opportunity due to your gender identity?
- «.Are you underpaid than the fellow workers?
- «.Do you work more than the fellow workers?
- «.Has anybody helped you to get a job?
- «.Have you offered bribes, money or sex in expectation of a job/ job promotion?
- «.Have you had any issues with getting a job/promotion?
- «.What is the reaction from your fellow workers about your gender identity?
- «.Has anybody tried to abuse you during work sexually, physically or psychologically?
- «.Do the fellow workers make fun out of you by making jokes? If yes, how often does that happen and please describe the incident.
- «.What are the problems you have faced during the work? From bosses, fellow workers, customers etc.

Part 7- PUBLIC PLACES/OFFICES

- «.When you visit government offices, what were the reactions from government officers?
- «.How were your experiences in police check points/checking of identity cards?
- «.Were you arrested by Police? If yes, please describe how you were treated during the arrest?
- «.Have you ever made a police complaint? If yes, about what did you complain?
- «.What are your attitudes towards hospitals, medical staff: STI doctors, psychologists and minor staff?
- «.Did you face any issues in using public toilets?
- «.How were your experiences in public transport?
- «.How were your experiences in travelling in trishaws?
- «.Did you face any issues in pubic parks, clubs, pubs, restaurants etc? If yes, please describe.
- «.Have you faced any other harassment in public places/offices? If yes, please describe.



- «.Did you face any issues in using public toilets?
- «.How were your experiences in public transport?
- «.How were your experiences in travelling in trishaws?
- «.Did you face any issues in public parks, clubs, pubs, restaurants etc? If yes, please describe.
- «.Have you faced any other harassment in public places/offices? If yes, please describe.

Part 8 - RELATIONSHIP WITH FAMILY, NEIGHBOURS, COMMUNITY AND PUBLIC AS AN ADULT

- «.Did you face any discrimination, threats, violence, force from family members?
If yes, please describe.
- «.Includes emotional violence: blackmailing, not speaking, limiting association with friends, demeaning, humiliating, blaming, or any form of verbal abuse, threatening not to speak with, threatening to attack, death threats, threatening to abuse sexually, threatening to do something bad, in both direct or indirect ways
- «.Did you face any discrimination, threats, violence, force from relatives? If yes, please describe.
- «.Did you face any discrimination, threats, violence, force from neighbours? If yes, please describe.
- «.Did you face any discrimination, threats, violence, force from community and public?
- «.Has anybody forced you for a heterosexual marriage? If yes, please describe.
- «.Have you ever sought/received help from anybody when you are in such a problem? If yes, please describe.

Part 9- RELIGION AND RELIGIOUS COPING

- «.What are your attitudes about religious institutions and leaders?
- «.Have you ever had any issues in accessing to religious places?
- «.What are your religious beliefs?
- «.How do describe your sexual/gender identity and activities according to your religion's point of view?
- «.How were you treated by religious priests?
- «.How were you treated by lay persons in a religious place or during a religious event?
- «.Do other people (eg. Family members, neighbours) have accused you on the basis of religion/religious beliefs?
- «.When you have a trouble, do you pray for a specific god or do any religious ritual?

PART 10- FUTURE EXPECTATIONS, ENJOYMENT, EMOTIONAL NEEDS

- «.What do you do for your enjoyment? What are your hobbies?
- «.Are you happy about you, and your life?
- «.Do you want to do something for the society? Or to live a good life? Do you think about you as a valued person? Self-value



- «.Do you receive enough love and care from your intimate partner and family members? If not how do you deal with it?
- «.Did you seek help from anybody when you are at a trouble?
- «.Do you blame yourself because of your gender identity or sexual orientation?
- «.Are there times that mentally down, stressed, depressed, or sad because of the violence, stigma or discrimination you face? Please describe the details. What actions do you take at such moments?
- «.Have you ever thought of committing suicide? Or attempted suicide? Please mention the details.
- «.Have you ever met a counsellor when you are in a problem? Have they helped you?
- «.Do you have any expectations for further education?
- «.Do you save money?
- «.What are your economic expectations?
- «.Do you plan to make sex reassignment medical surgeries? What is your plan to find the costs for it?
- «.Have you ever thought of going abroad? Why did you think about it? Have you ever planned of going abroad?
- «.What will you be doing after 5 years?
- «.What will you do in old age? How will be your life? Do you have a retirement plan?
- «.Can you expect help from anybody to make your future expectations successful?

Part 11- TRANSITION

- «.When did you feel that you need a sex reassignment surgery? Details
- «.If you don't feel the need of a surgery, why is that?
- «.When did you start the process?
- «.Did you consult a Lawyer? How was the meeting with lawyer? What did you feel about the lawyer's attitudes?
- «.Did medical staff help you? What is your feeling about them? Did they understand you?
- «.What were the reactions from your partner, family, public about your decision of gender transition?
- «.Have you sought/received help from anybody to support you for the gender transition process?
- «.How was the process of changing the documents? Did you face any troubles in changing the documents?
- «.What were the reactions and attitudes of government officers? Were they ready to help you? Did they understand you?



Part 12 - SEXUAL AND ROMANTIC LIFE

- «.What was your first sexual experience? What was your age? Did it happen with your consent? How do you feel about it?
- «.How many love affairs have you had? In general, how long they were?
- «.Have your sexual partner ever cheated you? In which way did they treat you?
- «.How long is your current relationship?
- «.Does your partner understand you? Are you happy with the current affair?
- «.Have you faced issues of domestic violence?
- «.What are the other issues associated with your relationship? Eg. alcohol, drugs, suspicion, infidelity, sexual addiction etc.
- «.Does your partner physically assault you? Please mention if there are any incidents
- «.Does your partner verbally threaten or abuse you? Please mention if there are any incidents includes blackmailing.
- «.Does your partner force you to do things that you don't like? Please mention if there are any incidents
- «.Who spends on family expenses/economy?
- «.Who does the domestic work?
- «.Any specific problems in the relationship?
- «.Have you ever felt that you don't need a relationship, or a permanent partner? If yes, why is that?

Part 13 - CONVERSION THERAPIES

- «.Has somebody tried to convert you to a heterosexual, force you to convert into a gender you don't like? Please describe your experience. re
- «.Have you ever sought help in such a situation?

Part 14 - PROTECTIONARY MEASURES

- «.What do you do to protect yourself from stigma, discrimination or violence? What precautions do you take?
- «.What are your attitudes about protection of law?
- «.Have you ever sought police protection? Have you made complaints to the police? If 'not' why? How were you treated within legal procedures?
- «.What are your attitudes about public/government officers?
- «.What are your attitudes about support of medical officers/ medical staff?
- «.What are your attitudes about support from counsellors?
- «.What are your attitudes about the support of fellow LGBTIQ community members?
- «.What are your attitudes about the support of LGBTIQ organizations?
- «.What are the other protection mechanisms you have used or available for you when you face a trouble?



- «.Have you ever helped another person in the community? Please describe the incident.
- «.What do you need from LGBTIQ organizations? What they should be doing for the benefit of the transgender community? Can you be happy with the current situation?
- «.Do you have any suggestions, recommendations to make better the lives of transgender persons?
- «.Is there anything that you need to tell which was not discussed in the interview?

Thanking the interviewee and finishing the interview

QUESTIONNAIRE GUIDE B: COMMUNITY LEADERS

- «.Please give us a brief introduction about you. (please include age, ethnicity, gender, job, community work he/she has done, status in the community)
 - «.Some people's gender identities do not conform with their biological sex. In simple words, some boys behave like girls. Some girls behave like boys. What do you think about them?
 - «.Have you seen transgender persons? Do they live in your community/ area?
 - «.Are they homosexuals or are they different from homosexuals?
 - «.Are they mentally ill?
 - «.Are they discriminated/ differently treated? Please describe.
 - «.What do you think of the people who call transgender persons with the term 'ponnaya'?
 - «.Do you think existence of transgender persons is historical? Or do you think it happened in the recent past?
 - «.How do you describe existence of transgender persons according to your religion?
 - «.According to our culture, how should we treat transgender persons?
 - «.In some countries, gender transition surgeries are done. And men and women can change their gender. What do you think about it?
 - «.In some countries transgender human rights are accepted and transgender persons are given an equal status same as the other persons. What do you think about it?
 - «.Transgender children might face various forms abuses, including sexual harassments, physical assaults? Do you think that we should take actions to protect such children?
 - «.Should transgender persons be educated or given higher education?
 - «.What is your view about transgender sex workers? Why do they go to sex work?
 - «.If there is a transgender person/ transgender child in your community, what actions will you take?
- In addition to above questions, the following questions were asked additionally from the specific categories of interviewees.

BUDDHIST MONKS

- «.What is the meaning of 'pandaka'?
- «.What is meaning 'Ubayathobijanka'?
- «.Are transgender persons born because of previous ill-Karma?
- «.Can a transgender person be ordained in the Buddha sasana?
- «.What was the Buddha's view about transgender persons?



- «.Buddha mentions about sex changes among monks? What do you think about them?
- «.Can a transgender person be a Buddhist?
- «.Can transgender persons be converted to 'normal' persons through religious counselling?

CHRISTIAN RELIGIOUS LEADERS

- «.What does Bible say about cross dressing?
- «.Is there any connection between 'sodomy' and a transgender person's sexuality?
- «.Can a transgender person be a Christian?
- «.Can transgender persons be converted to 'normal' persons through religious counselling?

ISLAM RELIGIOUS LEADERS

- «.Does the Holy Quran mention about transgender persons/ cross dressing?
- «.Does Prophet Muhammed mention anything on transgender persons/cross dressing?
- «.Can Islamic family courts take action against transgender persons/ cross dressing? If actions can be taken what are they?
- «.Can a transgender person be a Muslim?
- «.Can transgender persons be converted to normal persons through religious counselling?

ORGANIZATION LEADERS/ STAFF

- «.Have transgender persons come here seeking to receive any services from you? If yes, please describe what sort of services?
- «.If a transgender client/service user is faced a negative discrimination from a staff member, can he complain to your manager?
- «.Can a transgender person work here as a staff member? Details

QUESTIONNAIRE GUIDE C: POLICE

- «.Please give us a brief description about you. (include age, ethnicity, post, experience in police service, gender)
- «.Do transgender persons live in your police division?
- «.According to your knowledge what are their jobs?
- «.Do they engage in sex work?
- «.Do they engage other illegal work?
- «.Have you arrested them? What were the reasons for the arrest?
- «.Under which the legal section do you arrest them?
 - 365 in penal code
 - 399 in penal code
 - Vagrant ordinance
 - Brothel house ordinance



- «.Following such arrests, what were the punishments given by the courts?
- «.Why do they do crossdressing?
- «.Are they different from homosexuals?
- «.Are they mentally ill?
- «.Do they trouble 'normal' people?
- «.Are there transgender persons who live descent lives?
- «.Some of them go into medical surgeries to change their biological sex. What do you think of this?
- «.Do you think transgender persons come under law's protection?
- «.Do you think transgender persons experience discrimination and inequality before law?
- «.Do you think human rights of transgender persons are violated?
- «.In some countries human rights of the transgender persons are accepted. What do you think of this?
- «.What actions Sri Lanka needs to take on this regard?

QUESTIONNAIRE GUIDE D: LAWYERS

- «.Please give us brief description about you (include age, ethnicity, post, organization, experience as a lawyer, expertise field)
- «.What is your general idea about transgender persons?
- «.Are they mentally ill?
- «.Why do trans persons want to change their gender?
- «.What is your idea on how they are treated in Sri Lanka?
- «.According to you, under which laws/legal sections trans persons are commonly arrested and why they are arrested under those laws?
 - Section 365, 365A
 - Section 399 – impersonation
 - Vagrancy ordinance
 - Brothel house ordinance
 - Other
- «.What is your idea about vagrancy law?
- «.What is your idea about law of impersonation section 399?
- «.What is your idea about 365 and 365 A in the penal code?
- «.Do you think that transgender persons do not come under equal protection of the law?
- «.What is your idea about transgender rights?
- «.Do you think that human rights of transgender persons are violated in Sri Lanka?
- «.In India 'third gender' was accepted as a separate gender category. How do you see this action?
- «.There are number of researches which mention that transgender persons experience sexual harassments and violence from police. Do you agree with this?
- «.What can be done to improve legal protection for the transgender persons?
- «.Have you appeared for a case related to a transgender persons? If yes, please describe your experience.
- «.Have you heard of any court case related to a transgender persons? If yes, please give details.



- «.Do you think that it is suitable for Sri Lanka, to take actions to promote transgender rights?
- «.Do you think that transgender persons experience unemployment than others or face discrimination with regards to getting an employment? What actions can be taken if they were discriminated on the basis of their gender identity in getting a job?
- «.Transsexuals face issues in changing their birth certificates and education certificates. What actions can be taken to avoid these issues/ make the process smoother?
- «.Your comments and suggestions on this issue

QUESTIONNAIRE GUIDE E: SEXUAL PARTNERS

- «.Please give us a brief description about you (include age, ethnicity, gender, job, sexual orientation)
- «.How did you start loving transgender person?
- «.Was it different from your previous love affairs?
- «.How did you feel it? Were you able to accept it?
- «.Did you try to change him/her? Details
- «.How did your neighbours/villagers react?
- «.How did your relatives respond to this relationship? Did they accept this relationship?
- «.How did your friends respond to this relationship? Did they accept this relationship?
- «.Did you face any issues from public when you two are together? If yes, please describe your experience.
- «.Did you face any issues from others regarding your relationship?
- «.Were there experiences of domestic violence between you and your partner? If yes, please describe your experience.
- «.How long is your current/last relationship?
- «.Do expect to marry him/her? Or already married with him/her?
- «.What challenges do you face in spending marriage life with a transgender person?
- «.Do you have any other comments/ suggestions

QUESTIONNAIRE GUIDE F: FAMILY MEMBERS

- «.Please give us a brief description about you. (Include age, ethnicity, gender, job)
- «.What is your relationship to the transgender person?
- «.When did you recognize him/her as a transgender person?
- «.How did you feel it? Were you able to accept it?
- «.Did you try to change him/her? Details
- «.How did your neighbours/villagers react?
- «.How did your relatives regarding his/her transgender identity?
- «.How did your friends regarding his/her transgender identity?
- «.Did you face any issues from public due to the fact that you have a transgender family member? If yes, please describe your experience.
- «.Did you face any issues with family pride/ shame to family?
- «.How did you overcome such issues?
- «.What is the current situation?



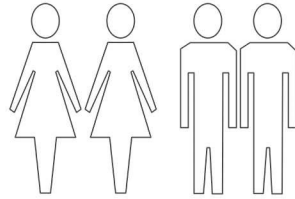
QUESTIONNAIRE GUIDE G: TEACHERS

- «.Give us a brief description about you (include Age, ethnicity, gender, experience as a teacher)
- «.What is your general idea on transgender persons?
- «.Have you met transgender children?
- «.Why do they behave so?
- «.Are they mentally ill or is there something wrong with them?
- «.According to your religion/culture, how do you describe their existence?
- «.Are they weak in studies?
- «.What issues do such people experience in the school?
- «.Do transgender students face other psychological issues like stress, attempts to suicide, etc.?
- «.Are transgender children more vulnerable to sexual abuse than other children?
- «.What actions can be taken to avoid such issues?
- «.As a teacher, how do you see Trans-children's situation in this country?
- «.Do you have any suggestions/ comments?

QUESTIONNAIRE GUIDE H: DOCTORS

- «.Please give us a brief description about you. (please include age, ethnicity, gender, experience as a doctor)
- «.Have you treated to transgender persons?
- «.What is your general idea about them?
- «.Why do they behave like that?
- «.Do you think they are more vulnerable to HIV/AIDS and sexually transmitted diseases?
- «.Why do you think so?
- «.According to you, what are the issues faced by them?
- «.What is your idea about gender identity disorder? Is it an illness?
- «.What is your general idea about gender transition surgery and hormone therapy? Is it suitable for Sri Lanka?
- «.What are the issues they have with regards to hormone therapy?
- «.What are the issues they have with regards to Gender transition surgery?
- «.Do you think that transgender persons have enough medical facilities in Sri Lanka?
- «.According to you, what are the other issues faced by transgender persons?





“Equality for all Sexual Orientations and Gender Identities: Human Rights for everyone”

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