



**មជ្ឈមណ្ឌលសិទ្ធិមនុស្សកម្ពុជា**  
**Cambodian Center for Human Rights**

**September  
2016**

## **Discrimination Against Transgender Women in Cambodia's Urban Centers**



Supported by



## Cambodian Center for Human Rights (“CCHR”)

CCHR is a leading, non-aligned, independent, non-governmental organization (“NGO”) that works to promote and protect democracy and respect for human rights in the Kingdom of Cambodia (“Cambodia”). Our vision is of a non-violent Cambodia in which people enjoy their fundamental human rights, are treated equally, are empowered to participate in democracy and share the benefits of Cambodia’s development. We desire rule of law rather than impunity; strong institutions rather than strong men; and a pluralistic society in which variety is harnessed and celebrated rather than ignored or punished. Our logo – a dove flying in a circle of blue sky – symbolizes Cambodia’s claim for freedom.

## About the Report

This research report (the “Report”) documents human rights issues faced by transgender women in Cambodia’s urban centers, and recommends actions to secure their rights to equality, dignity, health and security. The report was produced by CCHR’s Sexual Orientation and Gender Identity (“SOGI”) Project, launched in 2010 with the aim of empowering Lesbian, Gay, Bisexual and Transgender (“LGBT”) people and advocating for their rights in Cambodia.

## Acknowledgments

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## Queries and Feedback

Should you have any questions or require any further information about the Report, or if you would like to give any feedback, please email CCHR at [info@cchrcambodia.org](mailto:info@cchrcambodia.org).

This Report, and all other publications by CCHR, is available online on the award winning Cambodian Human Rights Portal, [www.sithi.org](http://www.sithi.org), which is hosted by CCHR.



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## Acronyms

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<b>CCHR</b>	Cambodian Center for Human Rights
<b>FTM</b>	Female to male
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>LGBT</b>	Lesbian, Gay, Bisexual, Transgender
<b>MSM</b>	Men who have sex with men
<b>MTF</b>	Male to female
<b>NGO</b>	Non-Governmental Organization
<b>OHCHR</b>	Office of the High Commissioner for Human Rights
<b>RGC</b>	Royal Government of Cambodia
<b>RoCK</b>	Rainbow Community Kampuchea
<b>SOGI</b>	Sexual Orientation and Gender Identity
<b>SOGIE</b>	Sexual Orientation and Gender Identity and Expression
<b>TGM</b>	Transgender Man
<b>TGW</b>	Transgender Woman
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations

## Definitions

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<b>Cis-gender</b>	A person whose sexual preference and gender identity conforms to their biological sex at birth; not transgender.
<b>Gender</b>	Refers to the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for men and women.
<b>Gender Expression</b>	Refers to how a person presents their gender. This can include behavior and outward appearance such as dress, hair, make-up, body language, voice, chosen name and pronoun.
<b>Gender Identity</b>	A person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.
<b>Sex</b>	Refers to the biological and physical characteristics that define men and women.
<b>Sexual Orientation</b>	A person's capacity for profound emotional, sexual attraction to and intimate and sexual relations with individuals of a different gender or the same gender or both.
<b>Third Gender</b>	A term usually used where a culture recognizes three or more genders, to describe those who identify as neither a man nor woman.
<b>Trans</b>	Short for 'transgender'; a term that refers to an individual whose gender identity is different from their sex assigned at birth.
<b>Transgender</b>	A term that refers to an individual whose gender identity is different from their sex assigned at birth.
<b>Transgender Man</b>	Someone who was assigned female at birth, but whose gender identity is that of a man.
<b>Transgender Woman</b>	Someone who was assigned male at birth, but whose gender identity is that of a woman.



## Executive Summary

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CCHR's research, collected through 135 surveys conducted in April 2016 in Phnom Penh, Siem Reap, Preah Sihanouk and Battambang, reveals that transgender ("trans") women are subject to high levels of discrimination in the Kingdom of Cambodia ("Cambodia")'s urban centers, including verbal, physical and sexual harassment in public spaces, denial of employment opportunities and discriminatory arrests, detention and abuse by the police. While senior figures in the Royal Government of Cambodia (the "RGC") have been eager to present Cambodia as a Lesbian, Gay, Bisexual and Transgender ("LGBT") friendly country in recent years, this research suggests a much harsher reality on the ground. The findings of this research indicate that the treatment of trans women requires immediate attention if Cambodia is to meet its international human rights obligations.

Nearly all of the trans women surveyed by CCHR experienced some kind of harassment while in public spaces<sup>1</sup> because of their trans identities, in most cases multiple times over the past 12 months. The proportion of respondents who have experienced verbal abuse (92%), physical violence (43%), sexual assault (31%) and rape (25%) in public spaces shows that Cambodian streets are alarmingly unsafe spaces for trans women. Victims of such violations feel they have nowhere to turn, typically believing that there is no chance the authorities will find justice for them. This lack of faith in law enforcement possibly stems from the extremely high levels of abuses committed by the police themselves. Levels of harassment and abuse of trans women by the police are shockingly high, with large numbers of respondents having been arrested and detained, and often abused, by the police because of their trans identities. Over a third (38.7%) of respondents had been arrested, and of these, 91.67% believe that they were arrested due to their trans identities. Approximately one third (33.58%) of all respondents have been wrongly accused of a crime. One of the most troubling details revealed by this research is the previously unreported practice of trans women being publicly humiliated and forced to bathe in the river in Siem Reap by police, a practice which likely amounts to cruel, inhuman and degrading treatment, and potentially torture, under international human rights law.

This research reveals that discrimination takes place regardless of a trans woman's occupation, although most Cambodian trans women are limited to working in 'feminized' occupations such as hair and beauty, and/or sex work. This is possibly partly due to discrimination on the part of employers, with 34% of respondents reporting being refused employment, and 25% reporting dismissal from employment, due to their trans identities. Internalized self-limitation, whereby trans women feel they cannot obtain certain jobs, is also a major factor in limiting many trans women to feminized work and sex work. Perhaps unsurprisingly, sex workers suffer from higher rates of discrimination than their non-sex worker counterparts in most areas of life. This research also suggests that trans women may be more likely to become sex workers if they have been refused a job or have been dismissed on a discriminatory basis.

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<sup>1</sup> Any reference to 'public spaces' in this Report corresponds to survey questions which asked about the experiences of respondents while "out walking". While containing an element of subjectivity, this definition is intended to correspond with respondents' own feeling of being 'in public'.

The research also suggests that many families fail to understand and accept transgender family members after they come out, with 48.85% reporting they have previously felt that they needed to leave the family home because of their trans identities. There is a stigma attached to transgender identity and many respondents report that the reason for a lack of support from their families is due to concern for the family's reputation, followed by a lack of understanding of transgender and gender identity issues. Notably, more than half (53.49%) of all respondents' families have attempted to force them to enter into a heterosexual marriage.

Despite the high levels of discrimination reported, a majority of trans women reported their life since coming out as improved, and self-define as happy. Over a third, though, have felt regret about coming out and a worrying 41% have had suicidal thoughts because of the discrimination and harassment they have faced. However, across the country the nascent growth of support organizations and networks working with and for, and sometimes run by, transgender and LGBT groups, is encouraging. An overview of the primary purpose of each section of this report can be found below:

**Chapter 1 (Introduction)** offers a brief overview of the background and objective of this study, defining key terms and highlighting the vulnerability of transgender women as a group across the world as well as in Cambodia.

**Chapter 2 (Purpose, Scope and Methodology)** details the aims, objectives and rationale behind this study and outlines the methodology.

**Chapter 3 (Transgender Rights and the Law)** outlines the protection offered by international and national law to LGBT persons, with a focus on transgender people.

**Chapter 4 (Findings & Discussion)** presents the findings of this research and analyzes the results.

**Chapter 5 (Conclusion & Recommendations)** sums up the findings and makes recommendations for how relevant stakeholders in Cambodia can improve the human rights situation of trans women.

# 1 Introduction

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Transgender women, globally, suffer from a wide array of human rights abuses in the public and private spheres, and on psychological and physical levels. Trans people in general are particularly vulnerable to discrimination because their SOGIE is most often visible to others, and trans women, in particular, are among the most vulnerable LGBT groups in terms of discrimination, violence and harassment. The Trans Murder Monitoring Project reports that 1,731 trans and gender-diverse people were murdered in 60 countries because of their sexual orientation, gender identity and expression (“SOGIE”) between 2008 and 2014.<sup>2</sup>

Although gender identity and expression has been increasingly included and alluded to in the core terminology of international human rights law, as well as national legislation around the world, the legal, social, and economic exclusion and marginalization of trans people still affects every aspect of their lives. Without legal protection, trans people are incredibly vulnerable and often face violence and discrimination stemming from prejudice, tradition and a lack of acceptance or understanding in society of different gender identities. The impacts of this are cumulative, and some are overtly visible, such as the HIV epidemic among trans women in many parts of the world.<sup>3</sup> Others are less visible, such as the onset of high levels of anxiety, depression and low self-esteem.

## 1.1 What does it mean to be ‘transgender’?

The terms ‘transgender’ and ‘trans’ are most regularly used to describe individuals who experience a feeling of mismatch between the sex they were assigned at birth and their gender identity; the internal, deeply held sense of which gender they belong to. A ‘transgender woman’ or ‘trans woman’ is therefore a person who was assigned the male sex at birth but identifies and usually also lives as a woman. Trans people typically present themselves externally in alignment with their gender identity rather than their birth-assigned sex, and many also opt to permanently transition through the use of medical and surgical procedures known as gender reassignment. In countries where it is possible, trans people may also seek to legally change their sex on official documents. Seen by many as a ‘third category’, discounting the binary female/male view of gender in favor of a more fluid interpretation, the term transgender can describe a broad range of identities and self-expression that society interprets as either more masculine or feminine.

Over the last couple of decades, developing perspectives on human rights spurred on by LGBT-led social movements has resulted in an emerging trend of legal precedents and legislation acknowledging a broader range of gender identities. Acknowledging the distinction between sex and gender is an important factor in addressing the anxiety and alienation that can stem from someone’s gender identity not aligning with the one they were assigned at birth.

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<sup>2</sup> Trans Respect Versus Transphobia Worldwide, ‘Trans Murder Monitoring Project – IDAHOT 2015 Update’ (8 May 2015)

<sup>3</sup> United Nations Development Program, ‘Transgender Health and Human Rights’ Discussion Paper (2013) p.2



## 1.2 Cambodian Context - History, Culture and Society

Although there are no definitive statistics on the number of trans women in Cambodia, one group of HIV/AIDS researchers has estimated the population at 3,030, based on research conducted in seven provinces.<sup>4</sup> These figures relate to individuals who identify as transgender, but in Cambodia, almost one third (29%) of LGBT people never reveal their LGBT status to anyone, making it even more difficult to estimate the true numbers of trans women in the country.<sup>5</sup>

Cambodia's predominantly Buddhist religious tradition suggests that there may have been a greater historic tolerance of diverse gender identities in Cambodia, compared with many other parts of the world. This section of the Report examines how transgender people are viewed in Cambodian society, and the effect this has on the discrimination faced by trans women today.

### 1.2.1 Cultural and Historical Perceptions of Gender Identity in Cambodia

Research in Southeast Asia, and specifically in Cambodia, has shown that there exists a diverse range of gender identities across the country and suggests that the understanding of gender in Cambodia is more fluid than in many parts of the world.

Research suggests that Southeast Asians are also less likely to understand gender in binary male/female terms, and are more likely to accept same-sex activity (particularly among males) as normal.<sup>6</sup> Local LGBT organization Rainbow Community of Kampuchea ("RoCK") reports that despite there being no words in the Khmer language that directly describe homosexual, heterosexual, bisexual, gay or lesbian behavior, there are over 200 terms used to describe LGBT people across Cambodia's provinces.<sup>7</sup> Often, the term 'short hairs' (*sak klei*) is used to refer to gay men, and 'long hairs' (or *srey sros*, 'charming girls') is used to describe transgender women.<sup>8</sup> The term '*khteuy*', which traditionally referred to a third sex or gender, is now generally seen as a derogatory term for transgender women.<sup>9</sup>

The impact today of any historical gender pluralism that can be found in Cambodia and Southeast Asia should not be overstated, however. Traditional family values, which encourage marriage and children, are deeply felt and often conflict with trans identities. While Cambodian society can be tolerant of male homosexual behavior, especially when it is discrete and does not affect the family structure, the experience of lesbians and transgender women and men is often found to be more disruptive.

Almost all (97%) of transgender respondents in a large-scale survey of LGBT and heterosexual people in Cambodia in 2015 practiced Buddhism. In the same survey, one third of LGBT supporters and 40% of LGBT respondents who practiced Buddhism responded that if Buddha were alive today they thought he would "*let LGBT people be who they are*".<sup>10</sup> Buddhism, in fact, places significantly less value on marriage and procreation than many other world religions, considering them positively if they bring about love and respect, but negatively if pain and strife are caused. Celibacy is revered amongst those

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<sup>4</sup> National Center for HIV/AIDS, Dermatology and STD & Cambodia AIDS Epidemic Model 2014

<sup>5</sup> Rainbow Community Kampuchea (RoCK), 'Research Report on Opinions, Attitudes and Behavior toward the LGBT Population in Cambodia' (2015)

<sup>6</sup> Earth, Barbara. 'Diversifying gender: male to female transgender identities and HIV/AIDS programming in Phnom Penh, Cambodia'. *Gender & Development* 14:2, pp.259-271 (2006) p.260

<sup>7</sup> Rainbow Community Kampuchea (RoCK), Op Cit.

<sup>8</sup> Earth, Barbara Op Cit.. p.261

<sup>9</sup> Ibid. p.260.

<sup>10</sup> Rainbow Community Kampuchea (RoCK), (2015) Op Cit.

seeking higher enlightenment. It makes sense, therefore, that there is less opposition stemming from religious views and institutions in Cambodia than from societal mores and traditions, which unlike Buddhist teachings, do place a high value on marriage and children.

Perhaps partly due to the lack of religious and institutionalized opposition, and despite the many issues faced by LGBT people in Cambodia, there have been many supportive statements made by influential public figures in Cambodia, including the revered late King Norodom Sihanouk and Prime Minister Hun Sen, about LGBT issues. The LGBT community is increasingly visible in Cambodia, potentially due, in part, to a nascent, but energetic and determined, LGBT rights movement. The first LGBT Pride celebration in the country was held in 2003, and since 2009 weeklong activities have extended beyond Phnom Penh into the provinces of Battambang and Siem Reap. Many local authorities and commune chiefs have also supported some Pride activities.

## 2 Purpose, Scope and Methodology

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The purpose of this report is to present evidence regarding the prevalence of discrimination against transgender women in Cambodia's urban centers from both private actors (e.g. family, friends, strangers, employers) and state actors (e.g. police, schools, healthcare services), and to make useful recommendations for what actions should be taken to address any issues that are identified. While previous research in Cambodia has focused on the LGBT community as a whole, or focused on the transgender community from the narrower perspectives of sex workers or HIV/AIDS, this report focuses on transgender women from a broader human rights-based perspective.

Based on the interactions of CCHR's SOGI Project with Cambodia's trans community, along with a desk review of existing research, CCHR considers harassment of transgender women by organs of the state to be a particular issue in Cambodia, and therefore this report focuses in the greatest depth on discrimination towards transgender women from the police and authorities. Moreover, this approach is further based on the principle of international human rights law which recognizes the state as the primary duty-bearer for guaranteeing human rights protections. Prior to conducting the research for this report, CCHR had received many reports suggesting the police and other authorities are frequent perpetrators of LGBT discrimination and harassment; for example, CCHR's 2015 report on LGBT bullying in schools found that 20.51% of respondents who were bullied had experienced bullying by the police because of their SOGI.<sup>11</sup> Other reports on transgender women in sex work similarly found high rates of discrimination, abuse and sexual violence against transgender women by the authorities.<sup>12</sup> In August 2015, a Daun Penh district official in Phnom Penh stated in the media that *"commune officials joined together to round up a total of 51 people including sex workers, khteuy [sic] and homeless people"*, calling them a *"shame to the nation's society"*, strongly insinuating that transgender women are specifically targeted by police.<sup>13</sup>

### 2.1 Methodology

In order to gain an understanding of the current situation of transgender women in Cambodia, desk research was carried out on the social, historical and cultural background of transgender women and perceptions around them in Cambodia, Southeast Asia and the world. The desk research also focused on the expanding global understanding of gender identity how this has carried over into international law and Cambodian national law.

Qualitative research was undertaken in the form of a comprehensive survey, which consisted of 152 questions and was drafted on the basis of the desk research and CCHR's experience of transgender issues in Cambodia. The survey was designed to collect quantitative data on harassment and discrimination, and included screening and demographic questions, and questions on self-perception and identity, living conditions, education, employment, health care, access to support and instances

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<sup>11</sup> CCHR, 'LGBT Bullying in Cambodia's Schools' (Report) (2015)

<sup>12</sup> For example, Human Rights Watch, 'Off the Streets: Arbitrary Detention and Other Abuses against Sex Workers in Cambodia' (2010) and Davis, Jarrett. et al. 'More than Gender: A Baseline Study of Transgender Persons in the Phnom Penh Sex Industry' (2014)

<sup>13</sup> Sokhean, Ben. 'City Hall Plans New Vocational Center Amid Latest Street Sweep' *The Cambodia Daily*, Online. (9 August, 2015)

of discrimination and abuse in various situations including at home, on the street, by service providers, authorities and police. In total, 135 respondents (68 in Phnom Penh, 25 in Battambang, 23 in Siem Reap and nineteen in Preah Sihanouk) were reached through the surveys.

CCHR researchers undertook three separate field missions in April 2016, collecting data in Phnom Penh, Siem Reap, Battambang and Sihanoukville cities. These cities were chosen as they are Cambodia's biggest, with the most well established LGBT networks. Surveys were conducted in a mixture of public and private settings, provided the respondents were comfortable with the surroundings. In each location, the Project made use of contacts within LGBT organizations networks to locate members of the target community and facilitate surveys with individuals who identified as transgender women, but with no other inclusion criteria. The survey, a mixture of multiple choice and open-ended questions, was carried out in interview style, mimicking a casual two-way conversation. For ethical reasons, CCHR researchers did not conduct surveys with any potential respondents that were suspected of being unable to give informed consent, as a result of drug or alcohol use. Both purposive and snowball sampling methods were utilized, as described below. During the administration of surveys, additional information that was offered by respondents, but that did not directly answer a survey question, was annotated on surveys by CCHR researchers.

## **2.2 Limitations**

CCHR encountered certain limitations while conducting this research, none of which significantly impaired the gathering of valuable data. It was initially intended to include transgender men in the research; however, following desk research and discussions with civil society partners, it was concluded that the issues faced by trans men are very much distinct from those faced by trans women, and would therefore be better served by research specific to trans men. There is a paucity of research into the situation for transgender men in Cambodia and CCHR hopes that future research will address this gap in knowledge.

One limitation to this research was the time available when conducting the field missions, due to resource constraints. Visits to each province lasted only two to three days, limiting the total number of respondents. This factor also resulted in a reliance on LGBT networks (including networks focusing on HIV/AIDS prevention) to find survey participants in each location, resulting in the possibility that some trans women who have not accessed support networks (and therefore may be some of the most vulnerable) were not reached. This limitation may have led to a higher than average number of sex workers taking part in the study, as sex workers may be more likely to be part of such networks. However, this limitation was mitigated by utilizing the "snowball sampling" method, whereby trans women who are members of support networks also recruited their acquaintances to take part in the survey. In Phnom Penh, where CCHR's office is located, this limitation was further mitigated by spending more time on field missions and aiming to reach harder-to-access individuals.

The final limitation relates to the scope of the research. The focus is on towns and cities due to the higher concentration of transgender women in urban centers, enabling CCHR researchers to maximize the amount of people surveyed, with limited time and resources. Nevertheless, CCHR hopes that this research may trigger further investigation into discrimination and harassment of transgender women throughout Cambodia.



### 3 Transgender Rights and the Law

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This section of the report will explore in greater detail the legal framework that exists to protect the rights of transgender people both internationally and in Cambodia. It will also discuss briefly their application in practice.

#### 3.1 International Human Rights Law

The Universal Declaration of Human Rights (the “UDHR”), the International Covenant on Civil and Political Rights (the “ICCPR”) and the International Covenant on Economic, Social and Cultural Rights (the “ICESCR”) guarantee equal rights to all individuals without regard for personal status or characteristics. Article 1 of the UDHR states that “*all human beings are born free and equal in dignity and rights*”, and allows no “*distinction of any kind*” including “*race, color, sex... or other status*”.

Non-discrimination is set forth as a fundamental principle of each of these human rights instruments, with Article 2 of the ICCPR requiring that a state guarantee rights to “*all individuals within its territory and subject to its jurisdiction... without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*.” This list is non-exhaustive, and the grounds of discrimination were specifically left open by the drafters in order to include other categories, such as sexual orientation and gender identity.<sup>14</sup> The UN Committee on Economic, Social and Cultural Rights has itself stated that “*other status*” as referenced in Article 2 of the ICESCR includes sexual orientation and gender identity.<sup>15</sup>

Thus, the legal obligations of states to uphold and protect the human rights of trans people are, theoretically, well established in international human rights law. In line with a rising awareness of LGBT issues globally and an increasingly active advocacy movement, human rights treaty bodies have sought to bring more explicit protections for LGBT groups into international law, to ensure states are under the obligation to protect all people from discrimination on the grounds of gender identity. Of particular relevance to this report, in 2011 the UN Office of the High Commissioner for Human Rights (“OHCHR”) noted that the fact a person is transgender does not limit that person’s entitlement to enjoy the full range of fundamental human rights accorded to them.<sup>16</sup>

However, despite non-discrimination being a fundamental principle of human rights law embodied in the UDHR, ICCPR and ICESCR, UN treaty bodies and other organizations are documenting an upswing in state violations of trans people’s human rights and marked failures by states to protect against human rights abuses by third parties, as well as restraint by states to actively secure trans people’s enjoyment of basic human rights.<sup>17</sup> In June 2011, the UN Human Rights Council (“UNHRC”) expressed “*grave concern at acts of violence and discrimination, in all regions of the world, committed against*

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<sup>14</sup> Office of the High Commissioner for Human Rights (OHCHR), ‘Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity,’ (A/HRC/19/41) (2011) p.14.

<sup>15</sup> United Nations Economic and Social Council, General Comment No. 20, ‘Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights),’ (E/C.12/GC/20) (2009)

<sup>16</sup> OHCHR, 2011. Op. Cit.

<sup>17</sup> OHCHR, ‘Born Free and Equal: Sexual Orientation and Gender Identity in International Human Rights Law,’ (HR/PUB/12/06) (2012). p. 10



*individuals because of their sexual orientation and gender identity.*"<sup>18</sup> The UN High Commissioner for Human Rights ("UNHCHR") has also called for the implementation of comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of actual or perceived gender identity, as well as sexual orientation and sex.<sup>19</sup> More recently, several developments point towards a greater recognition of LGBT rights in international human rights law. A follow-up resolution was passed by the UNHRC in 2014 calling upon the UNHCHR to report on best practices to overcome LGBT discrimination.<sup>20</sup> In September 2015, an unprecedented coalition of twelve UN bodies, including UNICEF, the World Health Organization, UNAIDS and the International Labour Organisation released a joint statement calling for a range of pro-LGBT rights measures, including legislation to legally recognize trans individuals' gender identities, and legislation to prohibit LGBT discrimination.<sup>21</sup> Most recently and perhaps most significantly, in June 2016, the UNHRC passed a historic resolution to create the position of 'Independent Expert on SOGI' under its special procedures.<sup>22</sup>

The 2006 Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity seek to work towards the goal of explicit inclusion of LGBT protections in law by providing clear recommendations for applying international human rights law and standards to issues of sexual orientation and gender identity.<sup>23</sup> Although the Principles themselves are non-binding, the UN Committee on Economic, Social and Cultural Rights has referenced the Yogyakarta Principles as a source of guidance, particularly with respect to definitions of terms like 'sexual orientation' and 'gender identity', which is described as "*one of the most basic aspects of self-determination, dignity and freedom*"<sup>24</sup>. Principles 1 and 2 refer to the Right to the Universal Enjoyment of Human Rights, and the Rights to Equality and Non-Discrimination for LGBT people, stating that "*human beings of all sexual orientations and gender identities are entitled to the full enjoyment of all human rights*" and requiring that states "*take all appropriate action, including programs of education and training, with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviors which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression*".<sup>25</sup>

Principle 29, on accountability, asserts that there should be no impunity for perpetrators of abuses against LGBT people related to the victims' sexual orientation or gender identity. The right to legal gender recognition is also included, with Article 16 stating that states should take "*all necessary legislative, administrative and other measures to fully respect and legally recognize each person's self-defined gender identity*".<sup>26</sup>

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<sup>18</sup> United Nations Human Rights Council Resolution 17/19, 'Human rights, sexual orientation and gender identity,' (A/HRC/RES/17/19) (14 July 2011)

<sup>19</sup> OHCHR (A/HRC/19/41), 2011. Op Cit. p.10

<sup>20</sup> United Nations Human Rights Council Resolution 27/32, 'Human rights, sexual orientation and gender identity,' (A/HRC/RES/27/32) 02 October 2014

<sup>21</sup> United Nations joint statement, 'Ending Violence And Discrimination Against Lesbian, Gay, Bisexual, Transgender And Intersex People', September 2015.

<sup>22</sup> See: 'UN Makes History on Sexual Orientation, Gender Identity', Human Rights Watch, 30 June 2016.

<sup>23</sup> Conference of International Legal Scholars, Yogyakarta, Indonesia, 6-9 November 2006. *The Yogyakarta Principles on The Application Of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (26 March 2007) ("The Yogyakarta Principles")

<sup>24</sup> OHCHR (2011) Op Cit. p.5

<sup>25</sup> The Yogyakarta Principles, Op Cit.

<sup>26</sup> Ibid.

The UN Convention on the Elimination of all form of Discrimination Against Women (“CEDAW”) doesn't address transgender women explicitly (nor does the CEDAW Committee in its recommendations or comments); however, in the CEDAW Committee's General Recommendation 28 it states that although the text of CEDAW only refers to sex-based discrimination, the convention also covers gender-based discrimination on the basis of “*socially constructed identities*”.<sup>27</sup> Therefore, CEDAW arguably also applies to trans women. Cambodia is a party to the Optional Protocol of CEDAW, meaning that individuals can bring complaints to the Committee.

### 3.2 National Law

The Cambodian legal framework largely ignores LGBT people. There is a lack of explicit protection for LGBT people in Cambodian law and no defined sanctions for those who commit abuses against them, and no legal recognition of same-sex partnerships. No mention is made of transgender people anywhere in the law, with key issues such as gender-confirmation (or sex reassignment) surgery and changing one’s name legally on the basis of gender identity being ignored. The Constitution, at the top of the hierarchy of laws in Cambodia, likewise makes no direct mention of LGBT citizens. Article 31 does guarantee equal rights to all Cambodians regardless of personal characteristics, stating that:

*“Every Khmer citizen shall be equal before the law, enjoying the same rights and freedoms and fulfilling the same obligations regardless of race, color, sex... or other status.”*

While LGBT persons arguably fall under the “*other status*” category, the certainty of this inclusion is weakened by the explicit inclusion in Article 31 of nine other categories. Despite the lack of mention of LGBT people in its national legal framework, Cambodia has ratified the ICCPR and ICESCR, and is therefore required to incorporate into its domestic law all the provisions for the guarantees of rights contained in the treaties. The Constitution of the Kingdom of Cambodia (the “Constitution”) states:

*“The Kingdom of Cambodia shall recognize and respect human rights as stipulated in the United Nations Charter, the Universal Declaration of Human Rights, the covenants and conventions related to human rights, women’s and children’s rights.”*<sup>28</sup>

This article has been interpreted by Cambodia’s Constitutional Council to mean that both treaties are directly applicable in Cambodian law.<sup>29</sup> Given that the ICCPR is directly applicable, it must be concluded that discrimination on grounds of SOGIE is prohibited under Cambodian law, although the prohibition lacks supporting legislation.

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<sup>27</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), ‘General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/GC/28) (16 December 2010)

<sup>28</sup> Constitution of the Kingdom of Cambodia (1993)

<sup>29</sup> Constitutional Council of the Kingdom of Cambodia, Decision No. 092/003/2007, 10 July 2007

## 4 Findings & Discussion

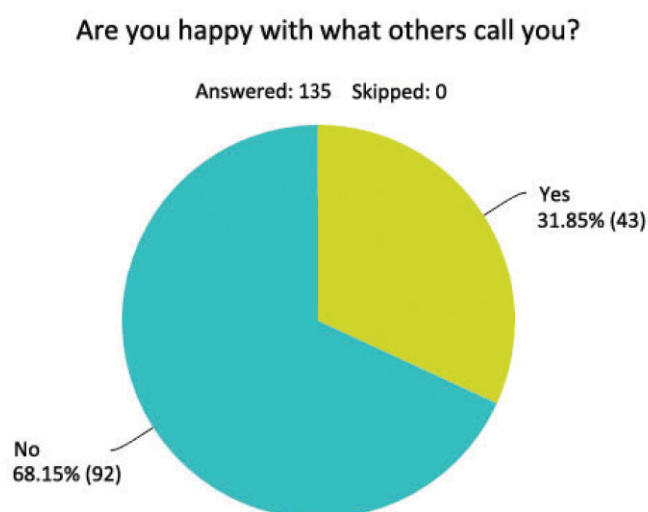
This section of the Report presents the findings and analysis of CCHR's research. In the survey conducted by CCHR, the largest age group surveyed, comprising 30.6% of respondents (41), was between 21-25 years old, with 26.12% (35) aged 26-30 years, 19.4% (26) aged 31-35 years, 11.19% (fifteen) aged 15-20 years, 8.21% (eleven) aged 36-40 years and 4.48% (six) were aged 41 or above. A total of 68 respondents were surveyed in Phnom Penh, 25 in Battambang, 23 in Siem Reap and nineteen in Preah Sihanouk provinces.

Almost none (2.22%) of the respondents had received a bachelors degree, and none received a masters or higher. Significantly, only 14.07% listed Grade 12 (final year) of high school as their highest level of educational attainment. A total of 5.93% listed Grade 11, 10.37% listed Grade 10, 22.96% listed Grade 9, 8.15% listed Grade 8, 9.63% listed Grade 7, 3.7% listed Grade 6, 10.37% listed Grade 5, and 11.11% listed Grade 4 or below.

A total of 46 respondents (35.11%) listed sex work as a primary source of income or as their primary occupation. When asked what their main source of income was over the past 12 months, the only career mentioned more frequently than sex work, but often alongside it, was hair and beauty - 39.69% (52 respondents) reported working in this industry. After this, 6.11% (eight respondents) reported working in the entertainment industry, and 5.34% (seven respondents) in NGOs or grassroots organizations.

### 4.1 Self-Identification

Despite the majority of respondents identifying as either *sreysros* (43.94%), *transgender* (26.52%) or *third gender* (26.52%), they are mostly referred to by other people as *khteuy* – 71.85% report being called this on a regular basis. Of those surveyed, 68.15% said they are not happy with the names others call them and 31.85% want to be called something different, the largest majority asking to be called simply by their name. Names they are frequently called by are considered to be discriminatory by 71.76% of respondents.



The widespread use of the derogatory term *khteuy*, and the rejection by trans women of the terminology used by the general population to describe them, raises immediate and fundamental concerns. It suggests a lack of understanding among the general population about discriminatory language and labeling, leading to the widespread use of terms which are considered offensive. With such a large proportion of trans women being primarily called names which they consider offensive, it can be assumed that this likely leads to feelings of exclusion and ‘othering’ among Cambodia’s population of trans women. The fact that a derogatory term is the term most commonly used by the general public for trans women is telling in respect of the general place of trans women in Cambodian society.

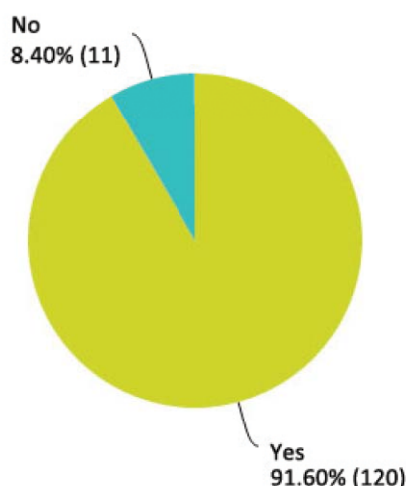
## 4.2 Harassment in Public Spaces

This section of the survey was divided into three parts, addressing separately three types of harassment - verbal, physical and sexual. The results show that trans women experience extremely high levels of all three types of harassment from the general population in public spaces.

Survey participants were asked whether they had ever been verbally harassed because of their transgender identity while outside walking. Nearly all of respondents (91.6%) said they had, and of these, 27.35% reported it happening more than ten times over the past year. Responses in the ‘other’ category were also of note, with three respondents (2.56%) reporting that verbal harassment on the street happened a hundred times or more in the past 12 months. These findings indicate that the streets of Cambodia are not safe spaces for trans women, and suggest high levels of discrimination by the general population.

When you have been outside walking, have you ever been verbally harassed because of your transgender identity?

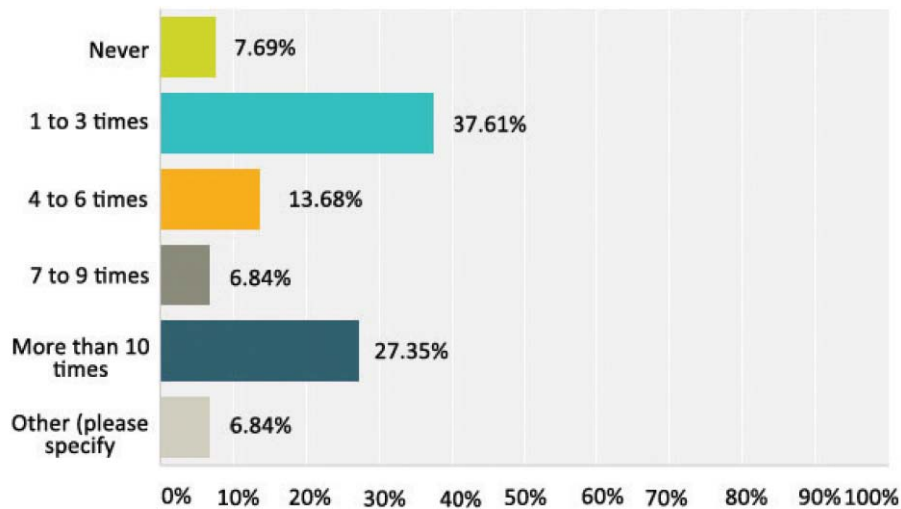
Answered: 131 Skipped: 4





### If yes, how many times in the past 12 months?

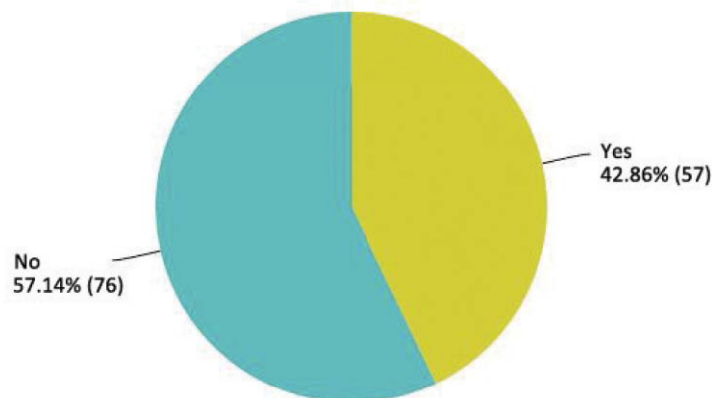
Answered: 117 Skipped: 18



Instances of verbal harassment are only marginally higher for those who are employed in sex work, with 95.74% of sex workers reporting verbal harassment in comparison with 89.29% of non-sex workers.<sup>30</sup> Of the six respondents (5.13%) reporting 20 or more incidents, two (1.7%) were sex workers.

### When have you been outside walking, have you ever been physically assaulted because of your transgender identity?

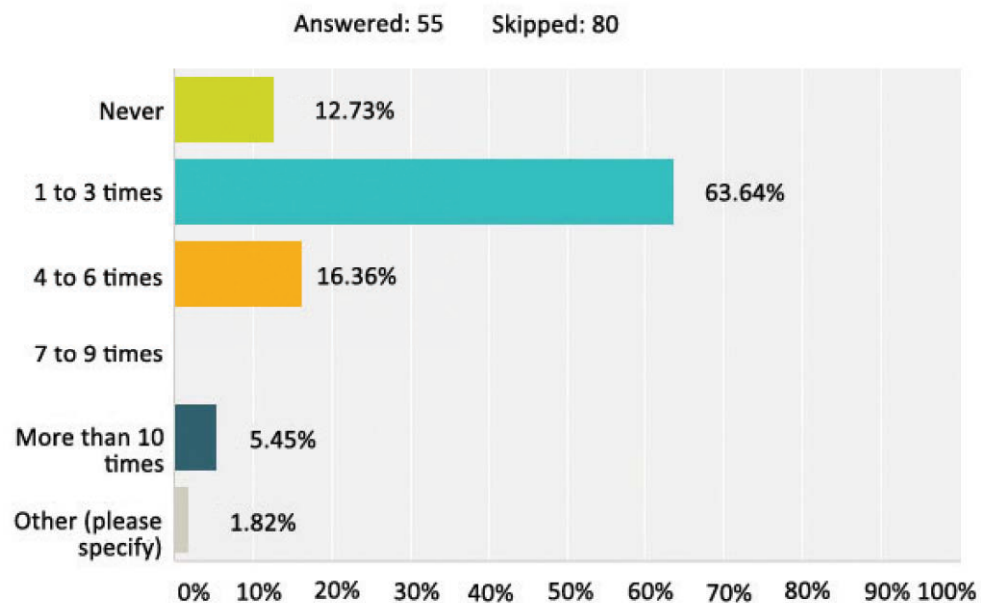
Answered: 133 Skipped: 2



<sup>30</sup> For the purposes of this report, "sex workers" refers to all the respondents who listed sex work as their primary source of income or one of their primary occupations. Therefore, statistics given for "non-sex workers" comprise all respondents who do not engage in sex work at all, and others who may engage in sex work but declined to list it as a primary occupation or source of income.

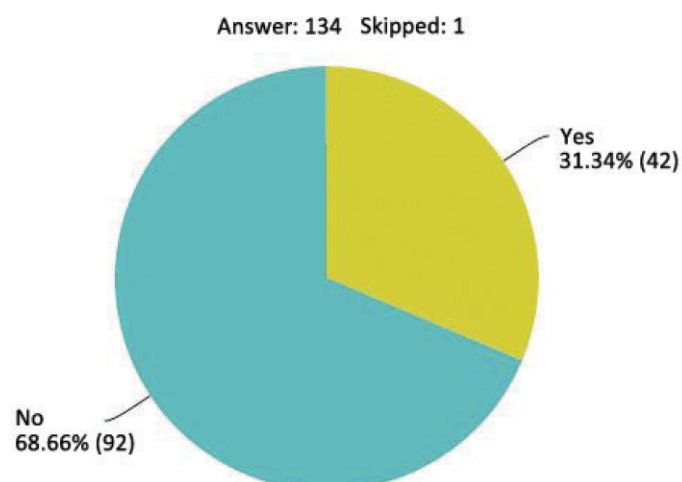


### If yes, how many times in the past 12 months?



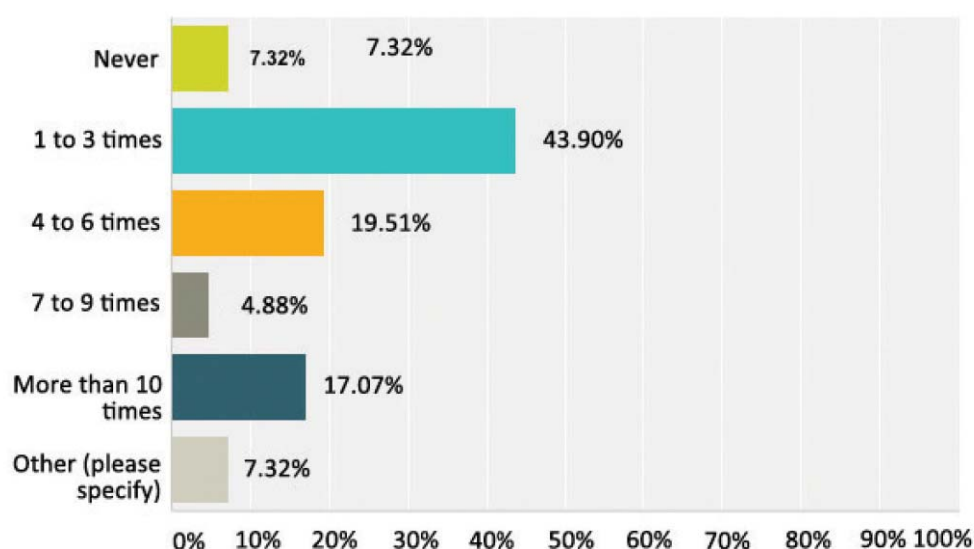
Notably, 42.86% of respondents reported having been physically assaulted in a public space, with over 92% revealing such incidents occurred in the past 12 months. The prevalence of physical assault against sex workers (59.18%) is much higher than for non-sex workers (33.33%), and 7.14% of sex workers report being physically assaulted more than ten times in the past 12 months. Such a high prevalence of attacks suggest that the state is not doing enough to ensure the security of trans women, and highlights the urgent need for anti-discrimination legislation which includes specific penalties for hate crimes.

### When you have been outside walking, have you ever been sexually assaulted because of your transgender identity?



### If yes, how many times in the past 12 months?

Answered: 41 Skipped: 94



Of equal concern is the fact that almost one-third (31.34%) of respondents reported being sexually assaulted while out walking on the street, and perceived this as being because of their trans identities. Of these, the numbers for whom this had happened more than three times are high - 19.51% reported being sexually assaulted four to six times; and 17.07% more than ten times. In the “other” category, two respondents (4.89%) reported being sexually assaulted more than 50 times and one (2.44%) reported it occurring more than 20 times in the past twelve months.

Of the 42 respondents who reported being sexually assaulted, 34 (82.93%) were raped in a public place in the past 12 months. Of those that did report being raped, one respondent said this had happened 50 times and another said 60 times in the past 12 months.<sup>31</sup> Perhaps surprisingly, the amount of sex workers who had experienced sexual assault (28.57%) was actually lower than reported by non-sex workers (32.94%). However, of those who had experienced sexual assault, a higher proportion of sex workers (73.68%) than non-sex workers (67.57%) experienced rape in the past 12 months. This data contrasts with assumptions that sex workers are at greater risks of sexual violence than others due to the nature of their work, and further highlights the concerning prevalence of such attacks against trans women as a general group.

Although not adequately captured by the survey questions, CCHR researchers received multiple reports of trans women being banned from, and forced to leave, public spaces, particularly in Battambang city and Siem Reap city. Some trans women reported to CCHR that cis-gender people are not subject to the same treatment, although this has not been confirmed. Molly<sup>32</sup>, a transgender woman from Battambang, told CCHR:

<sup>31</sup> Due to the sensitive nature of the questions regarding rape, it is possible that the actual prevalence of sexual violence against trans women is higher than indicated by these findings, as respondents can decline to answer.

<sup>32</sup> Pseudonym

*“Every time srey sros gather in the park to socialize, the police force us to go home and threaten to arrest us if we do not comply. They always accuse us of being thieves. This is discrimination. Why can’t we stay there to enjoy the public place like everybody else? We are not causing any trouble.”*

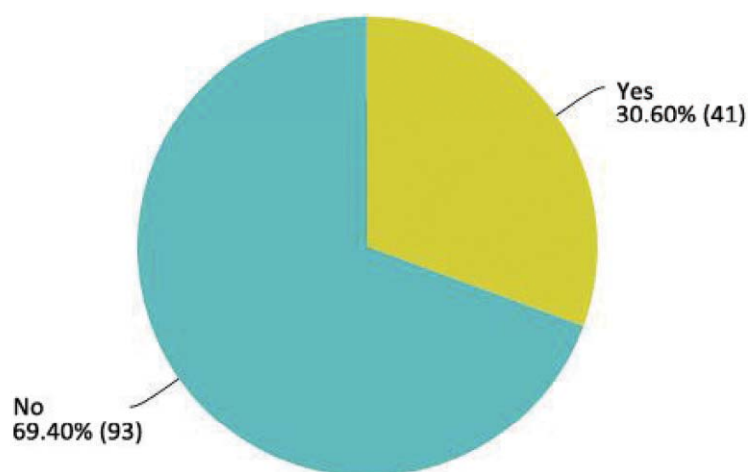
### 4.3 Living Conditions, Families and Relationships

Research suggests that transgender women are regularly ostracized or excluded from their families and communities due to their trans identities, leaving them with little in the way of a support system.<sup>33</sup> Transgender women variously report being excluded from family activities such as social gatherings, and being thrown out of home, disowned or cut off by families and significant others.<sup>34</sup>

Of the trans women surveyed by CCHR, 22.39% reported being evicted from their home at some point; 65.52% of this number more than once and 10.34% “very often”. Of those who had experienced eviction, 64% believe it was because of their SOGI. Nearly a third (29.92%) of all respondents had at some point been homeless, with twice as many sex workers (42.86%) as non-sex workers (21.79%) reporting prior homelessness. Of those whose families don’t currently support them (34.59%), 45.45% have at some point been homeless, and 48.85% of respondents have felt they needed to leave home because of their trans identity. A smaller number, 15.27%, have at some point been kicked out of their family home.<sup>35</sup> This data shows a correlation between sex work and homelessness, though further, qualitative research is required in order to establish the precise causes of both homelessness and engaging in sex work among trans women. It can be logically assumed, however, that those who leave home because of their gender identity are more likely to encounter homelessness than those who are fully supported in the family home.

#### Did your family support you when you first came out as transgender?

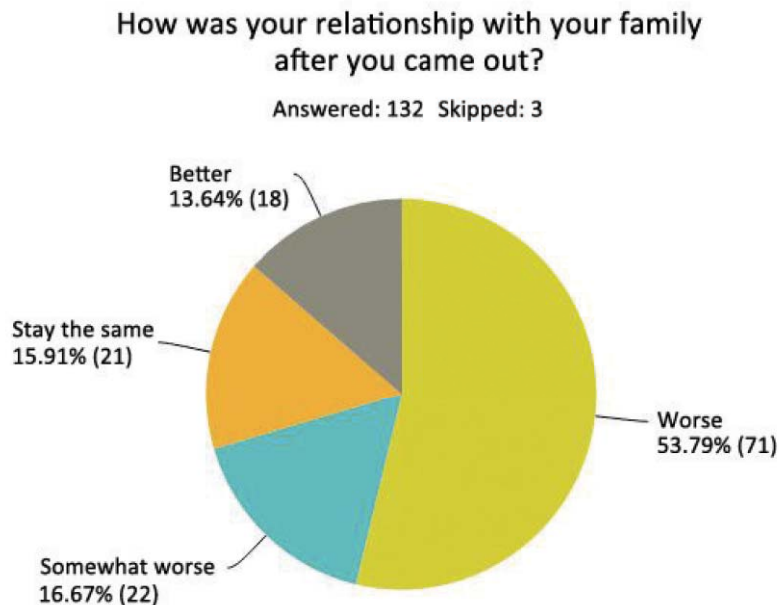
Answered: 134 Skipped: 1



<sup>33</sup> CCHR ‘Coming Out in the Kingdom: Lesbian, Gay, Bisexual, and Transgender People in Cambodia’ (Report) (2010)

<sup>34</sup> Davis, Jarrett. et al. ‘More than Gender: A Baseline Study of Transgender Persons in the Phnom Penh Sex Industry’ (2014)

<sup>35</sup> These findings strongly support pre-existing research in respect of the housing situation of trans sex workers in Phnom Penh. Davis, Jarrett. et al. (Op. Cit.) p.22-23.



Over two-thirds (69.4%) of respondents said that their family did not support them when they first came out as transgender, although 65.41% said their families do support them at present. Over a third (34.59%) have families who do not currently support them. This data supports existing research.<sup>36</sup>

Among the respondents who said their families do not currently support them, 44.44% said this was due to a concern for the family's reputation and 24.44% said it was due to a lack of awareness of LGBT issues. Almost nine percent (8.89%) said the lack of support came from concern about continuation of the family, and the rest said a combination of all the above. It is interesting to note that rejection by the family does not come from religious or dogmatic views, but rather traditional family values and concerns about reputation.

Over half (53.49%) of all respondents said a family member had tried to force them to get married in the past. In 95.59% of cases the marriage didn't go ahead; for three respondents (4.41%), it did. Attempted or actual forced heterosexual marriage is an exceptionally traumatic experience, which is faced by a large proportion of Cambodian trans women, and LGBT Cambodians generally. It consists of a toxic combination of the outright rejection of a young trans person's true identity by their family, along with elements of coercion and sometimes-physical force, and it reflects the hallowed and inflexible role occupied by traditional heterosexual marriage in Cambodian society – one of the key obstacles in the way of equality for LGBT Cambodians.

#### **4.4 Employment**

As a result of discrimination, trans people face high rates of unemployment and are often relegated to seeking work in narrow, marginalized or feminized occupations. According to the UNDP, *"In some*

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<sup>36</sup> The majority of heterosexual people surveyed by RoCK in an expansive survey conducted in 2015 reacted to the possibility of having an LGBT family member (child, child in-law or spouse) negatively, rather than positively. Over half stated that they would feel shameful, angry or sorry for the LGBT person, and wish they were heterosexual. 78% of heterosexual people in the RoCK survey who professed to be LGBT supporters said that only after trying to change their LGBT child to be straight, would they accept them.



*regions, most trans women are sex workers, with limited or no rights or legal protection.*<sup>37</sup> Many trans women are excluded from workplaces based on their SOGI and there are reports of transgender women being turned away from jobs when their SOGI status was revealed, for example after passing a written interview and only then meeting a prospective employer face to face. A large proportion of trans women work as sex workers, with smaller numbers finding employment in factory work and jobs such as hairdressing, makeup artistry, and laundry, with monthly salaries averaging, according to one study, around \$320.<sup>38</sup>

Notably, 46 respondents (35.11%) in CCHR's survey listed sex work as their primary occupation. When asked what their main source of income was over the past 12 months, the only career mentioned more frequently than sex work, but often alongside it, was hair and beauty - 39.69% (52 respondents) reported working in this industry. After this, 6.11% (eight respondents) reported working in the entertainment industry, and 5.34% (seven respondents) in NGOs or grassroots organizations. Just over half of respondents (51.59%) earned between 100-299 USD per month over the previous three months, 15.87% earned 51-100 USD per month, 14.29% earned 300 – 499 USD, while 7.94% earned less than 50 USD and 10.31% earned 500 USD or more.

Although the wording of the question called for one answer only, many respondents listed more than one profession as their main source of income, suggesting that it is in many cases necessary to have multiple sources of income. In total, 15.08% of respondents listed sex work alongside other forms of employment.

The prevalence of traditionally feminine (or *feminized*) career choices is notable. Studies have shown that transgender women do tend to perceive their opportunities as limited to more traditionally feminine types of work.<sup>39</sup> This may be partly due to the prejudices of employers, but it has also been suggested that it relates to the internalized cultural perception of the transgender identity itself, and societal expectations of trans women.<sup>40</sup>

Stigma and social exclusion likely play a significant role in forcing many transgender women into sex work, along with low economic status and a lack of education and skills. Additionally, high numbers of trans women are refused employment and enter into sex work through a real or perceived lack of other choices.<sup>41</sup> However, many trans women told CCHR researchers that they undertook sex work not out of necessity, but choice, and several respondents who earned enough income from 'day jobs' engaged in sex work at night, regardless. In the context of support services and advocacy, therefore, sex work should not be solely characterized as enforced by circumstance, and it must be recognized that in many cases, it is a choice. While the provision of skills and training, along with a reduction in discrimination by employers, must be pursued in order to broaden the choices available to trans

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<sup>37</sup> UNDP 'Transgender Health and Human Rights' Discussion Paper (2013) p.14

<sup>38</sup> Davis, Jarrett. et al. (2014) Op Cit. p.20

<sup>39</sup> Jarrett Davis *et al.* argue that beyond structural reasons for transgender women seeking the kind of employment they tend to, the defined identity of a transgender or third gender person in Cambodian society encourages certain choices, including sex work. That study cited sexual promiscuity and the desire to have sex with 'real' (masculine; straight) men as being an important part of the self-identity of many of the transgender women surveyed. The study suggested that sex work may provide not only an income but also a way to live out their assumed identity, which is affirmed only by being attractive to and having sex with straight men. Davis, Jarrett. et al. (2014) Op Cit. p.29

<sup>40</sup> Ibid. p.31

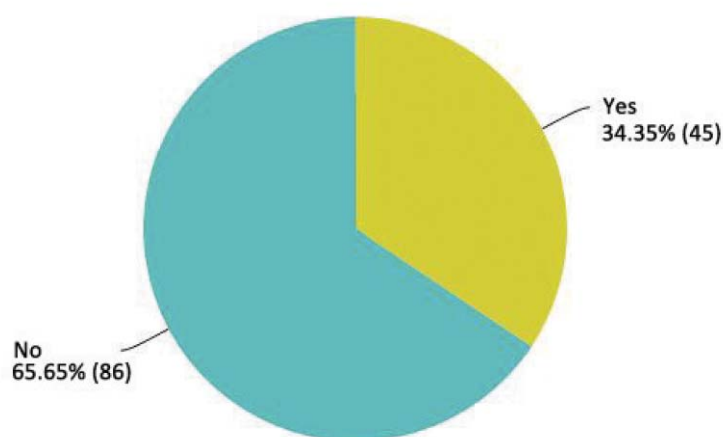
<sup>41</sup> Ibid. p.36



women, those who choose to undertake sex work must have their choices respected, and must have their rights and safety guaranteed in the course of their work.

### Have you ever been refused from a job because you are transgender?

Answered: 131 Skipped: 4



Notably, more than one-third (34.35%) of all respondents have been refused a job because they are transgender, and 24.62% of all respondents said they had been dismissed from a job because they are transgender. The number reporting mistreatment at work was also high, with 26.72% of all respondents having been previously harassed or bullied by a boss or colleagues, 11.54% of all respondents having been sexually harassed and 8.53% of all respondents having been physically assaulted. Incidents of assault by customers were also high with 22.14% having been physically assaulted and 17.69% sexually harassed by customers or service users in the past 12 months.

It is evident that transgender women face significant difficulties in gaining and keeping formal employment, as well as significant harassment in the workplace. One report noted that even amongst NGOs working on transgender issues, discrimination exists against transgender women when it comes to employment; for example between 2009 and 2012 the national network of men who have sex with men ("MSM") and transgender persons did not have one member of paid staff from these groups.<sup>42</sup>

One significant aspect of employment discrimination was not adequately captured by the survey questions, but became apparent as researchers engaged with survey respondents: many of the trans women surveyed have never applied for 'formal' employment because they felt they had no chance of success. This could also be a factor in explaining the relatively narrow range of careers that transgender women work in, and supports theories of self-limitation suggested previously, as well as in other research.<sup>43</sup> It is evident that trans women in Cambodia are limited not only by externally imposed barriers to employment, but also by an internalized perception of their own limitations and potential. It is possible that this occurs as a means of self-preservation, with trans women refraining

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<sup>42</sup> Ibid. p.43

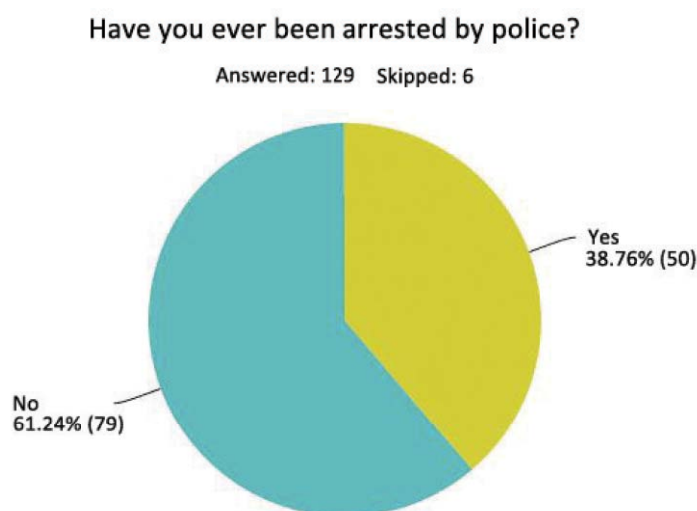
<sup>43</sup> Ibid. p.31

from taking risks when they know their chances of success are limited by real and widespread discrimination by employers and the general public.

#### 4.5 Police and Authorities

CCHR's research shows that law enforcement authorities – the very people who are charged with protecting the rights, safety and security of citizens – are among the worst abusers of trans women's rights in Cambodia. The findings of this research show highly significant numbers of arrests and detentions of trans women based on their trans identities, including for crimes they have not committed, in order to extract bribes. Instances of harassment – verbal, physical and sexual – by the police are also highly prevalent.

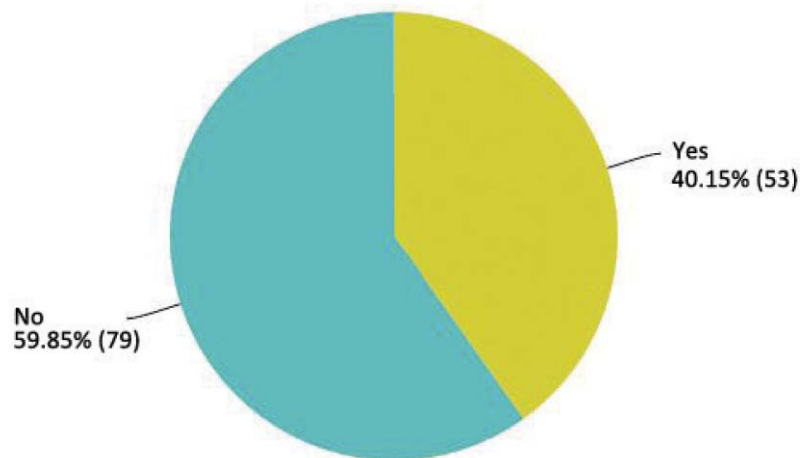
Police and authorities committing violations of trans women's rights act with apparent impunity, and the numbers of trans women who feel that it is worth reporting incidents is very low. Most survey respondents (74.63%) said that they knew of transgender individuals who had been arrested by police officers because of their trans identities. Of those who had themselves been arrested (38.7%), 91.67% believe that they were arrested due to their transgender identity. Nearly a quarter (23.31%) of all respondents have been detained by police in the past, and again, the vast majority (90.63%) of this group believes it was because they are transgender.



Of those who had been detained, 29.63% (eight respondents) were kept for between 1-3 hours or 4-11 hours, and 37.04% (ten respondents) were kept for between 12-24 hours. Two respondents were kept for periods longer than 24 hours.

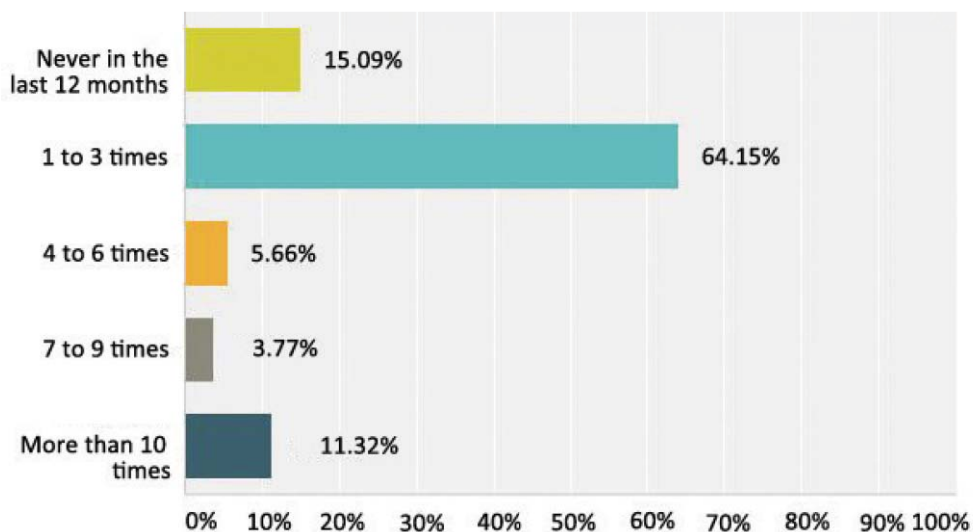
### Have you ever been harassed/bullied by police because you are transgender?

Answered: 132 Skipped: 3



### If yes, how many times in the past 12 months?

Answered: 53 Skipped: 82



Over forty percent (40.15%) of respondents said they had been harassed or bullied by the police because they are transgender, with 85% of that number reporting such an occurrence within the past 12 months. Six reported such an occurrence more than ten times in the past 12 months. Physical assault by police was reported by 17.16% of all respondents, three (12.5%) of whom said they had experienced this more than ten times in the past 12 months. A similar number (14.93%; 20 respondents) reported having been sexually harassed by police and 9.02% (12 respondents) have been sexually assaulted by police, one more than ten times in the past 12 months. Such a high prevalence of abuse by the police is deeply concerning, and indicates a failure on the part of the Cambodian state

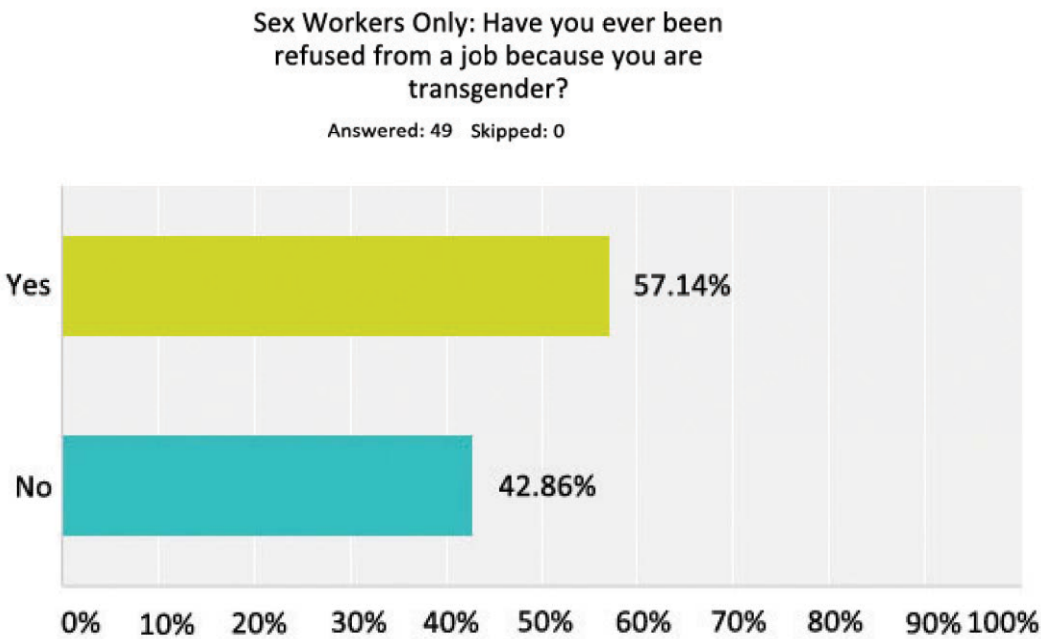
to adequately respect and protect the rights of trans women. Not only are the police failing in their obligation to protect trans women from human rights abuses, in many cases, they are themselves the perpetrators.

Several trans women told CCHR about being persecuted for allegedly having or spreading HIV/AIDS, with such taunts a common refrain by perpetrators of abuse. Other trans women surveyed described being forced to pay bribes and complete chores. Significantly, over one third (33.58%) reported having been wrongly accused of a crime, and of these, 62.5% were made to pay a bribe to the arresting officer. The widespread practice of false accusations and extortion by the police is highly concerning. While there was no control group to compare these data with statistics for the general population, it is likely that trans women are more vulnerable to targeting by the police as a result of their lower status in Cambodian society, along with the high proportion of sex workers among the population.

**4.6 Sex Work, Stigma and Discrimination**

While the findings of this research show that transgender women in general face high levels of discrimination, when the data for those reporting working as sex workers was analyzed separately, it became apparent that there are significant differences in the findings, that revealed problems unique to sex workers. Significantly, of those who reported engaging in sex work at some point in the past, 95.74% have been verbally harassed, 91.3% physically assaulted and 85.11% sexually assaulted while engaging in sex work. While the prevalence of harassment in public spaces was high for transgender women across the board, some results regarding discrimination within employment, the family and abuse in intimate relationships were higher in respect of sex workers.

It is important to note that while the findings of this research show that sex workers generally do face more discrimination than non-sex workers, trans women who do not engage in sex work experience comparably high levels of discrimination, across the board.





Over half (57.14%) of sex workers reported having been refused a job because they are transgender, compared with only 20.73% of non-sex workers. Equally significantly, 40.82% of sex workers report being dismissed from a job because of their trans identity, compared with a far lower 14.81% of non-sex workers. These significant differences suggest that discrimination on the part of employers could be a major factor in leading trans women to turn toward sex work. With regard to experiences of discrimination in the formal workplace, 40.82% of sex workers have experienced harassment or bullying from colleagues or a boss, compared with 18.37% of non-sex workers.

The number of sex workers who report being excluded from social events in the past 12 months by their family rises from 9.41% for non-sex workers to 20.83% of sex workers. Among sex workers, 22.92% reported having been excluded from family activities (for example cooking, eating together, or sleeping in the same room), as opposed to 6.02% of non-sex workers. Similarly, 16.33% of sex workers reported experiencing violence from their family as opposed to 4.94% of non-sex workers, and 23.4% of sex workers as opposed to 10.71% of non-sex workers have previously been kicked out of their family homes.

Sex workers were shown to be particularly vulnerable to abuse by intimate partners. A significantly higher number of sex workers reported having been forced to have sex against their wishes by an intimate partner, compared with non-sex workers (47.92% as opposed to 23.53%). Abuse of sex workers by sexual or romantic partners was also higher, with 36.73% reporting this happening in the past 12 months, versus 14.63% of non-sex workers.

These findings lead to two observations in respect of trans women as sex workers: firstly, there is a clear correlation between a lack of acceptance by family on one hand, and the likelihood that a trans woman will be engaged in sex work, on the other; and secondly, there is an equally strong correlation between experiences of discrimination in formal employment, such as refusal from a job and dismissal because of their trans identities, and later sex work. While these findings do highlight the increased difficulties faced by sex workers, further qualitative research is required to firmly establish causation.

The high proportion of transgender women working as sex workers has also meant that a high number have had their livelihoods and employment security negatively affected by increased crackdowns on sex work by the authorities. It is worth noting that, while “*solicitation in a public place*” is illegal according to Article 298 of the Criminal Code, law enforcement must not occur in a discriminatory manner, and the police have no authority or justification to commit abuses against sex workers, even if they are found to have committed a crime. The specific issue of police discrimination and harassment of transgender sex workers is discussed further in the following sub-section.

#### *4.6.1 Police Discrimination against Trans Sex Workers*

Research points to an increase in crackdowns by authorities on sex workers, which have particularly targeted transgender women.<sup>44</sup> Research completed in 2009 on the Law on Suppression of Human Trafficking and Sexual Exploitation showed that while arrests of female entertainment workers decreased between 2007 and 2008, arrests of MSM and transgender entertainment workers increased threefold during that period, often cited as being due to the discriminatory suspicion that they might

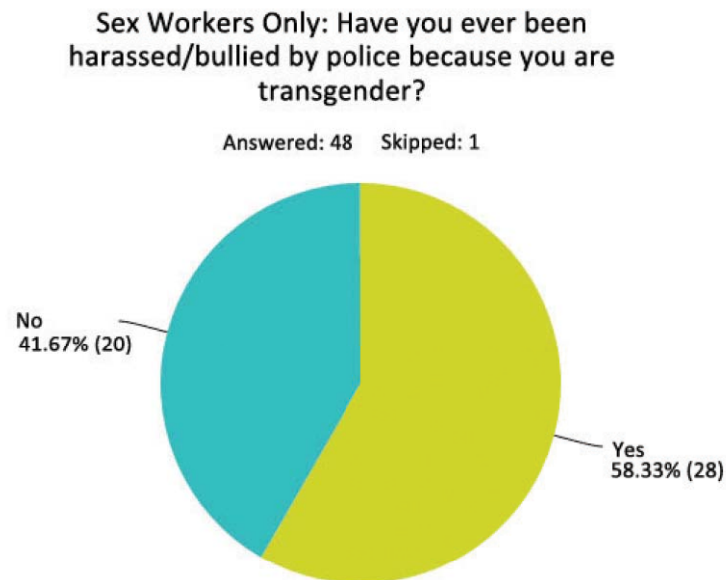
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<sup>44</sup> Jenkins, C. ‘Violence and Exposure to HIV Among Sex Workers in Phnom Penh, Cambodia’ (2006)



be thieves.<sup>45</sup> CCHR has also received many reports of trans women who are engaged in sex work being exploited by police for financial gain, and arrested under false pretenses often relating to drug use, trafficking or prostitution.

Of sex workers surveyed, 58.33% reported being harassed or bullied by the police because they are transgender, with 96% of that figure reporting such incidents occurring in the past 12 months. Physical and sexual assaults were reported by 30.61% and 18.27% respectively. A significant 46.94% of sex workers report being wrongly accused of a crime by the police, in comparison with 25.88% of non-sex workers.



#### 4.7 Cruel, Inhuman and Degrading Treatment by Police

Various accounts from transgender women who have been arrested recount events which likely amount to cruel, inhuman and degrading treatment, or perhaps torture, under international human rights law.<sup>46</sup> Despite “*torture and barbarous acts*” being punishable by seven to twenty years in jail under Cambodian law, or longer if the torture was committed by a public official, as in these cases, more often than not there is impunity for abusers of trans sex workers (and sex workers generally) because crimes either go unreported or authorities fail to mount adequate investigations.

##### 4.7.1 Forced Bathing in Siem Reap

CCHR received many reports while conducting research in Siem Reap, from both direct victims and local LGBT networks, related to a new practice which has developed, whereby police target transgender sex workers and force them to bathe in the dirty, stagnant river when they are caught engaging in sex work, or wrongly perceived to be doing so. Sometimes they are forced to bathe naked. CCHR researchers were told that, in some cases, the trans women targeted can pay a bribe of around \$30 to avoid this humiliating extra-judicial punishment, but not always. While undoubtedly an instance

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<sup>45</sup> CACHA and National AIDS Authority, ‘Policies environment regarding universal access and the right to work of Entertainment Workers in Cambodia’ (Research Report) (2009). pp. 65-67

<sup>46</sup> For example, see Human Rights Watch, ‘Off the Streets: Arbitrary Detention and Other Abuses against Sex Workers in Cambodia’ (2010)

of police abuse, this practice is doubly concerning due to its discriminatory nature and its psychological implications.

One reported justification for this practice was that it forces sex workers to go home rather than going back onto the street. However, survey respondents told CCHR researchers that this punishment is not given to cis-gender sex workers, suggesting discrimination against trans women. Potentially, because the practice involves washing, the removal of makeup and at times the removal of clothes, this punishment could amount to an attempt at stripping away the victim's gender expression.

Legally, aside from constituting discrimination, it is likely that this treatment of trans women by the police at least amounts to cruel, inhuman or degrading treatment under international human rights law, and possibly constitutes torture. Article 1 of the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), which Cambodia has ratified, defines torture as:

*"...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, **or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.**"<sup>47</sup>*

The forced bathing of trans women fits this widely accepted definition of torture above. It involves severe mental pain and suffering, it is intended to intimidate and coerce, and it appears to be based on discrimination. Furthermore, the punishment is being inflicted by a public authority, thus satisfying all of the elements of torture under international human rights law. Victims reported a feeling of hopelessness when asked about whether they might report this treatment, doubting that their case would be taken seriously. The following narrative account is based on an interview conducted with a trans woman in Siem Reap. The victim's name has been changed.

#### **Srey Lim's Story**

*"About a week ago, I was forced into the river by police. It was around midnight and I had just come back from the Banchous Sreyima ceremony. These police came and told us that it was time to go to bed; that we couldn't be there at that time. I told them I didn't know that I wasn't allowed to stand there at midnight, and asked them to forgive me this one time. They said no, and told us to get in the river or pay thirty dollars. They only picked on the srey sros – they weren't focused on the other sex workers around, the regular girls. It's discrimination – they always force us to leave places.*

*I know other people this has happened to as well, three friends of mine, at the beginning of March [2016]. Before, they always used to just make us go home, but now they've started making us get in the river. It's really unacceptable, it makes me upset. I want justice for srey sros. We've never done anything wrong or anything bad to the police. They need to stop bullying us and trying to get money from us. Right now, I don't feel safe in Siem Reap and neither do other srey sros.*

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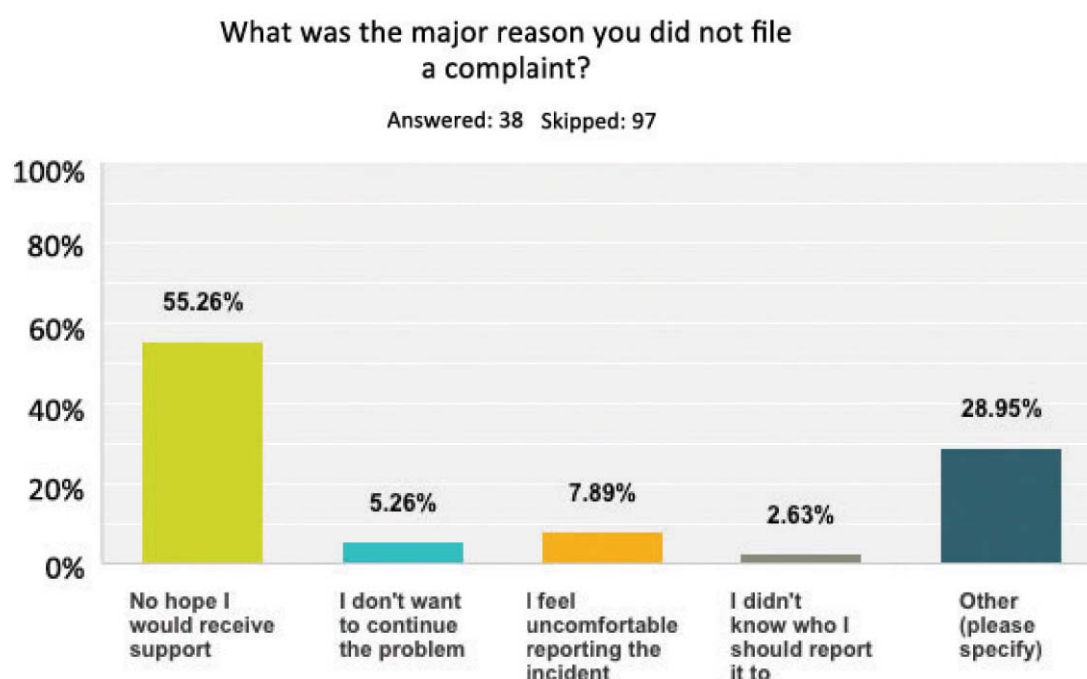
<sup>47</sup> United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly Resolution 39/46) (1984)

*I've been faced with violence from the police in the past, but it's true I haven't been to the police station to report it. I don't think there's any point; I wouldn't win. They wouldn't even pay me any attention. I want it to stop, though; I want the authorities to respect the rights of srey sros and stop violations."*

## 4.8 Reporting of Abuses

Respondents who had faced experiences of harassment or discrimination were asked whether they had ever reported such an incident the authorities, and a highly significant 84.73% said they had not.

When asked why, 55.26% said that they believed there was no hope of receiving support. Further to this, all of the 28.95% who selected the answer 'Other' did so because they wished to express a combination of all four options offered – not wanting to continue the problem, feeling uncomfortable reporting it, and not knowing who they should report it to. These findings indicate that trans women have little or no faith in the Cambodian criminal justice system, and feel there is little chance that the violations they have suffered will be remedied. Arguably, this is no surprise, considering the prevalence of discrimination emanating from the authorities themselves.

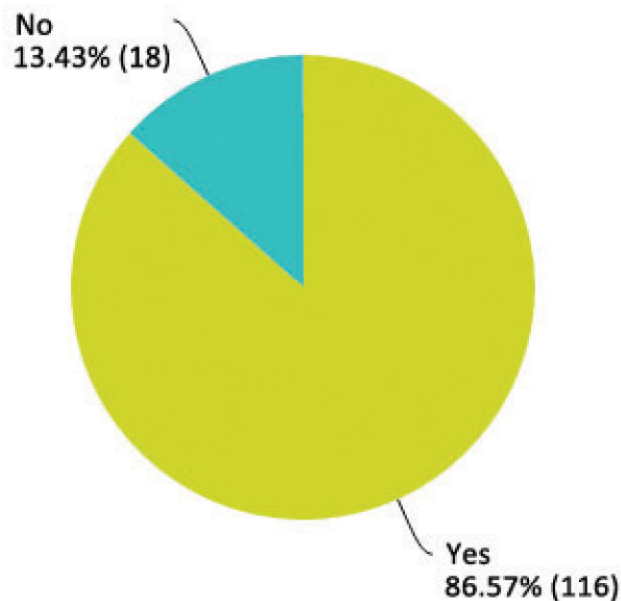


## 4.9 Mental Health and Psychological Impact of Discrimination

Discrimination, social exclusion and marginalization can have a hugely negative impact on an individual's self-esteem and psychological wellbeing, particularly due to the influence of stigma and prejudice, which can be so deeply entrenched in society.

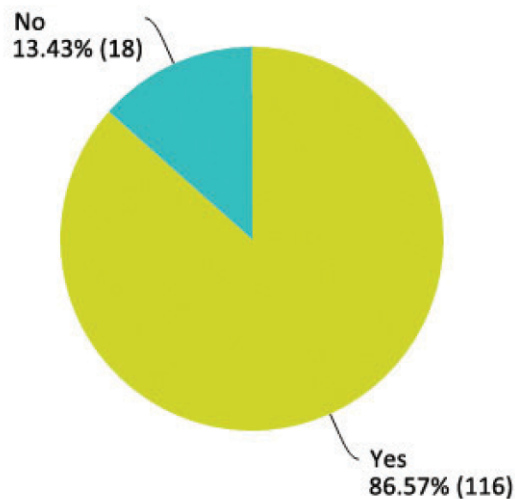
### Are you happy with your current life?

Answered: 134 Skipped: 1



### Are you happy with your current life?

Answered: 134 Skipped: 1



Encouragingly, the vast majority of respondents (86.57%) said they are happy with their current life and that their life is 'better' (67.67%) since they came out. However, 36.57% say they have felt regret about coming out as transgender in public. Of all respondents, 41.35% (53.06% of sex workers and 34.52% of non-sex workers) said that they have considered suicide because of the harassment or discrimination they have faced. Of those who had considered suicide, 94.23% have done so within the past 12 months. The high levels of happiness reported, taken in conjunction with the findings on the



amount of transgender women who have contemplated suicide, indicate that many trans women face severe difficulties and trauma in their lives, even if most can eventually find happiness after coming out.

There appears to be a strong sense of community and shared identity among Cambodian trans women. Nearly all (94.78%) respondents said that they had close friends. The majority (67.91%) also said that coming out as transgender had changed their relationship with their friends in some way and, of these, 78% said their relationships with their friends had changed for the better and 8.94% 'much better'. During the course of CCHR's research, researchers observed that there are tightly-knit communities of trans women in many of Cambodia's urban centers, providing each other with mutual support that is crucial in the context of a society that discriminates so heavily against trans women. This is increasingly being demonstrated, as well, by the emergence of support groups and networks created by, and targeting, the transgender population.

#### **4.10 Seeking Help and Support Groups**

Of the transgender women surveyed, 69.47% have joined trainings about LGBT rights, and 77.34% are current members of LGBT networks. This data, however, is unlikely to be representative due to how researchers reached respondents – mainly through LGBT networks across Cambodia. Unfortunately, research limitations meant the hardest to reach individuals – those who do not access support services – were mostly not reached by this survey. However, desk research does provide some useful insights into the general rise of LGBT and transgender networks across Cambodia, and an increasing movement among transgender women to form them. It is likely that an increasing number of trans women are being reached by support services as a result.

However, it should be noted that most LGBT networks outside of Phnom Penh are explicitly focused on HIV/AIDS and health, and many lack the capacity to effectively respond to the overall human rights needs of Cambodian trans women. The concentration of LGBT rights-focused organizations such as CCHR, CamASEAN and RoCK in Phnom Penh means that essential supports for trans women are lacking in other urban centers. Some of the health-focused organizations have regular meetings with local authorities and national institutions such as the National AIDS Authority; however, CCHR researchers were told by some activists that the authorities often refuse to engage with overall LGBT rights issues at such meetings, insisting on limiting the discussion to HIV/AIDS prevention in the narrow sense.

## 5 Conclusion and Recommendations

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CCHR's research has revealed shocking levels of discrimination against transgender women in Cambodia's urban centers. This discrimination is present in all areas of trans women's lives, from within the family and community, to employment, public spaces and interactions with the police. Worryingly, discriminatory arrests, extortion and abuse of transgender women by the police are endemic and mostly occur with apparent impunity. In some cases, the treatment of trans women by the police likely amounts to cruel, inhuman and degrading treatment, if not torture, under international human rights law.

Previous reports have suggested a particularly acute problem with levels of harassment and abuse of sex workers (including both male and female and transgender sex workers) and care has been taken in this report to analyze the data collected not just for the group as a whole, but also separately for those who reported engaging in sex work to analyze whether there were any significant differences. This report has shown that non-sex workers, too, face high levels of discrimination, though in many areas sex workers do face double discrimination, and a higher exposure to abuse, as a result of their work. In particular, trans women as sex workers face higher levels of abuse in sexual and romantic relationships and from the police and authorities. The research has also suggested that discrimination in formal employment, and rejection by the family, may lead many trans women to become sex workers.

Despite experiencing high levels of discrimination, a majority of transgender women reported being happy with their current lives, which could say more about their levels of resiliency than their actual quality of life, considering the worryingly number of respondents who reported having thought about suicide because of the discrimination they have faced. That being said, among the survey respondents, access to support groups was high, and the vast majority of transgender women interviewed reported having good relationships with close friends, indicating that trans women in urban centers have relatively strong social supports, despite the high prevalence of family rejection.

Despite the resilience of the trans women interviewed for this research, and the inspiring solidarity encountered among the LGBT community, it is abundantly clear that the Cambodian government is failing in its duty to protect and uphold the human rights of Cambodian trans women. Immediate action is required to end some of the worst abuses, and genuine and long-term policy reform is required if trans women in Cambodia are ever to achieve full equality.

Based on the findings of this report, CCHR wishes to make the following recommendations to relevant actors and stakeholders:

### **1. Recommendations for the Royal Government of Cambodia:**

*1.1. Introduce legislation explicitly prohibiting discrimination of all kinds, including on grounds of gender identity / expression and sexual orientation, which:*

*1.1.1. Guarantees equal opportunities and treatment of transgender women in the workplace and recruitment processes;*

- 1.1.2. *Guarantees access to all levels of education and ensures equal treatment by students and teachers, including an inclusive uniform policy; Introduces the specific offence of “hate crimes” to the Criminal Code, in line with international best practice, including appropriate punishments for the perpetrators of hate crimes against trans women and their minorities. Ensure that human rights violations against transgender women are appropriately addressed by:*
- 1.1.3. *Ensuring that all perpetrators of physical, sexual and verbal abuse against transgender women are punished according to the law and not allowed to act with impunity;*
- 1.1.4. *Investigating the widespread and discriminatory practices of arresting, detaining, extorting and framing of innocent transgender women by the police;*
- 1.1.5. *Immediately investigating reports of forced bathing, torture and cruel, inhuman and degrading treatment of transgender women, and taking appropriate action against any police officer found to have engaged in this illegal punishment;*
- 1.1.6. *Investigating reports of police forcing trans women out of public spaces and banning them from re-entering, and ensuring that equal access to public spaces is guaranteed.*
- 1.2. *Take preventative measures to combat discrimination against transgender women by training public officials in the principles of non-discrimination as set out in both Cambodian law and the international human rights treaties to which Cambodia is subscribed;*
- 1.3. *Ensure that mental health services are made widely available to the transgender population and that staff are appropriately trained to deal with issues specific to transgender women;*
- 1.4. *Introduce legislation to guarantee for trans people the right to legally change their gender and name on official documents, in line with their gender identity, in a process that is accessible, free and administrative (as opposed to judicial);*
- 1.5. *Combat stigma and prejudice in society by running awareness-raising programs among the general population and in schools about transgender and LGBT issues, including forced marriage;*
- 1.6. *Introduce voluntary and free-of-charge educational and vocational skills training programs for sex workers who wish to change career, and amend the National Employment Policy to include LGBT people as a specific target group.*
- 2. Recommendations for the General Department of National Police of the Ministry of Interior:**
  - 2.1. *Tackle the widespread abuse of transgender women’s rights by police by:*
    - 2.1.1. *Investigating all allegations of abuse of trans women by police officers and taking appropriate disciplinary action, including suspension or expulsion from the police force;*
    - 2.1.2. *Incorporating training on human rights, LGBT rights and non-discrimination in the training curriculum for all trainee police officers, and provide additional training on these issues to current police officers;*

*2.1.3. Implementing a peer reporting system and whistleblower protection protocol for police officers who wish to report acts of discrimination by their colleagues.*

**3. Recommendations for all political parties:**

*3.1. Commit to promoting awareness of transgender issues and rights in Cambodia by:*

*3.1.1. Committing to adopt recommendations 1.1-1.7 if elected into power;*

*3.1.2. Spreading positive messages about the transgender community when campaigning or engaging in public discourse.*

**4. Recommendations for employers:**

*4.1. Introduce non-discrimination policies to ensure dignity and inclusion in the workplace, including protecting the rights of LGBT employees;*

*4.2. Ensure recruitment processes and hiring decisions provide equal opportunity for transgender women;*

*4.3. Actively encourage transgender women to apply for jobs when advertising for specific positions or in general.*

**5. Recommendations for trade unions:**

*5.1. Ensure trans women in the workforce are adequately represented and their voices heard;*

*5.2. Campaign against discrimination related to gender identity by employers and organizations;*

*5.3. Educate all members about the rights of transgender and LGBT people in Cambodia.*

**6. Recommendations for Cambodian civil society organizations:**

*6.1. Staff of health service provision NGOs and networks, including HIV/AIDS organizations, should undertake training in human rights and the human rights-based approach, and ensure that prevention strategies consider issues of discrimination and health as inextricable. All engagements with authorities on HIV/AIDS prevention and strategy should follow this approach, and give direct voice to trans women themselves wherever possible.*

*6.2. Ensure that transgender rights become a priority of the Royal Government of Cambodia by:*

*6.2.1. Proposing joint educational initiatives on trans rights with the Royal Government of Cambodia, which target public servants, schools and the general public;*

*6.2.2. Mainstreaming transgender inclusivity, non-discrimination and human rights into all internal policies and activities, including recruitment.*

**7. Recommendations for international organizations, NGOs, and donors:**

*7.1. Ensure that transgender rights become a priority of the Royal Government of Cambodia by:*

*7.1.1. Supporting the government and relevant ministries to develop and implement non-discrimination policies and legislation to protect transgender rights;*



*7.1.2. Funding, sharing and performing further research into transgender issues in Cambodia, including into the experiences of transgender men.*

*7.2. Develop and implement strategies to address the concerns and needs of transgender people.*

**8. Recommendations for further research:**

*8.1. Investigate further the prevalence of sexual violence against trans women, including sex workers;*

*8.2. Conduct qualitative research to establish the reasons that motivate trans women to go into sex work, looking in particular at family rejection and discrimination in formal employment;*

*8.3. Conduct quantitative and qualitative research on the prevalence and forms of discrimination faced by transgender men in Cambodia.*

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