

VOICES UNHEARD

Analysis of Human Rights Situations of LGBTIQ people in Upper Myanmar Region

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Riksförbundet för homosexuellas, bisexuellas, transpersoners och queeras rättigheter

The Swedish federation for Lesbian, Gay, Bisexual, Transgender and Queer Rights



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Preface

It is of my greatest honor to introduce this report on the human rights situations of LGBTI in Upper Myanmar region.

I would like to extend my first and foremost gratitude to the partner organizations of CAN-Myanmar, namely, Bright Pride Myanmar Lesbian organization, Brilliance Bisexuals, SPACE, GOAL, TRY organization, Pyin Oo Lwin Ye Ye and LGBT Group, Thunder Mahlaing, Thapyaynyo Shwebo Pan, Meikhtila LGBT Network, Khainghninsi, Same Hands from Cherry Land, Same Hands from Tamar Land, A Linn Mee Eain, Lashio Tomboy and Lesbian Group, Evergreen Lover and Diversity for love – who played an important role in collecting data and information for the production of this report. Last but not least, the staffs of CAN-Myanmar; Program officer Sitt Rait, Program assistant Daw Theint Htet Htet San, Operations Manager Daw Zar Zar Oo, Human Resource and Finance officer U Phone Htut Nay and Accountant officer Daw Pwint Ei for their contributions towards this project.

Like any human society, there have always been LGBTIQ people in Myanmar; from the time of ancient civilizations to the modern era. However, their lives and roles in society were limited, and their contributions as well as their rights were not well-recognized because of the discriminatory cultural, social and religious perspectives – often seen together with prejudice and stigma which again prevents them from exposing their identities. Despite the current times with more open-minded and transparent society, many LGBTI in Myanmar still remain hidden in the closets due to highly potential discriminations and violence. Besides, Myanmar's legal and justice system make LGBTI more marginalized and vulnerable, particularly the Penal Code Article 377 and Police Acts. These outdated, ancient and obsolete provisions inherited from British colonial rule continues to criminalize consensual same-sex sexual conduct.

As a consequence, LGBTI are marginalized and excluded from contributing in the country's vital sectors such as politics, economy, social, education, health and cultures etc. This report sheds a light on what types of violence and discriminations LGBTI in Myanmar are facing and to what extent and how these impose negative impacts on their lives through touching personal stories.

"Equality" should be for all people regardless of their race, color, religion, disability, sex, gender or sexual orientation. While Myanmar is transforming into a meaningful democracy, a true value of democracy shall never be perceived unless this is ensured by the policy-makers, by our society and each and every one of us individually.

Hence, I strongly encourage that recommendations for protection of LGBTI rights and necessary policy reforms mentioned in this report should be well recognized and implemented by the duty bearers.

May our future society be prevailed and bloomed with equality, respects, prosperity and peace.

U Kaung Zaw Htet
Program Director
C.A.N-Myanmar

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Abbreviations and Definitions

LGBTI

LGBTI or LGBTIQA is an umbrella term that represents people of sexual diversities i.e. lesbian, gay, bisexual and transgender etc.

Lesbian

Lesbian is a woman whose enduring physical, romantic and/or emotional attraction is to other women.

Gay

Gay is a term used to describe a man whose enduring physical, romantic and/or emotional attraction is to other men, although gay can also be used to describe both gay men and women (lesbians).

Bisexual

Bisexual describes an individual who is physically, romantically and/or emotionally attracted to both men and women.

Transgender

Transgender describes people whose gender identity differs from the biological sex they were assigned at birth. The term transgender refers to a person's gender identity, not the person's sexual orientation. Thus, a transgender individual may be heterosexual, gay, lesbian, or bisexual. A transgender man is someone who identifies as a man, but was assigned female at birth. A transgender woman is someone who identifies as a woman, but was assigned male at birth.

Cisgender

Cisgender describes people whose gender identity matches the biological sex they were assigned at birth.

Queer

Queer is a term used by this report as an umbrella term to refer to all SOGIE minorities who do not identify themselves as gay, lesbian, bisexual, or transgender. This includes (but is not limited to) individuals who identify as asexual or questioning.

Gender Identity

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth.

Gender Expression

Gender expression refers to each person's presentation of the person's gender through physical appearance—including dress, hairstyles, accessories, cosmetics— and mannerisms, speech, behavioural patterns, names, and personal references

Sexual orientation

Sexual orientation refers to each person's capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.

Sex characteristics

Sex characteristic is a physical or behavioral traits of a person which are indicative of his or her or their biological sex.

SOGIESC

SOGIESC is an abbreviation for Sexual orientation, gender identity, gender expression and sex characteristics.

LGBTI

LGBTI or LGBTIQQAs is an acronym for L=lesbian, G=Gays, B=Bisexuals, T=Transgender/Transsexual, I=Intersex, Q=Questioning/Queer and A=Asexual.

MNHRC Myanmar National Human Rights Commission

DSW Department of social welfare, resettlement

MoE Ministry of Education

MoRAC Ministry of Religious Affairs and Culture

SDG - Sustainable Development Goals

ICESCR – International Covenant on Economic, Social and Cultural Rights

ICCPR – International Covenant on Civil and Political Rights

CEDAW – Convention on Elimination of Discrimination against Women

CRC – Convention on Rights of Child

CRPD – Convention on the Rights of People with Disability

Chapter (1) - Introduction

Myanmar restricts and stigmatizes sexually diverse minorities and LGBTI based on the religion, culture and customary norms. Like most societies around the world where a gender hierarchy gives greater values to men than women, Myanmar society is also deeply rooted with traditional and toxic masculinity, with male individuals often reckoned as a ‘more powerful human beings’ and accepted in the leading roles whereas the females, otherwise. These assumptions lead to the prejudice that males who identify themselves as females or females who identify as males are either foolishly trying to forfeit their privileges as men or trying to become someone they are not and hence; mentally disoriented or shameless.

Moreover, deviated sexual orientation is often mistakenly presumed to be “a phase that is going to be corrected later in the older ages”, and that it “can be converted back to the ‘normal’ conditions with the certain type of cure”. Such assumptions fuel mocking, suppressions, blaming against LGBTI people, spreading hatred that leads to social exclusions, discriminations, subjecting them to violence in some situations. On a daily basis, young LGBTI especially face domestic and family violence, bullying by their brothers or sisters,

suppressions at school by the teachers and bullying from the fellow students and discriminations by general public individuals in different walks of lives.

From 2018 to 2020, some shocking news arose and all of them were associated with the suicides of LGBTI people. Within the month of June, 2019, a young 18-years old gay boy from Pakokku township of Magway region took his own life after being put under the pressures of the family, blaming the victim of bringing embarrassment to the family with his exposed sexual orientation; with his personal privacies on facebook messenger being violated by the family members; and him being tortured. Another case that went viral among LGBT community in Myanmar is the suicide of a gay librarian of MIU university in Yangon, followed by the serious work-place discrimination and forced outing of his sexual orientation. State-recognized 9 Honor Titles-holder monk's public Dhamma hearing session organized in one factory compound in Bangkok, Thailand, also delivered hate-speech against "gay" people; saying "if I become president, gay people would be murdered. And if there are any gays in today's audiences, kill them, people" and some gay audiences had to recklessly flee and ran away from the hearing session. A transgender woman and her partner from Taungtha township in Mandalay region were engaging in a romantic relationship and the parents from both sides strongly opposed and denied their union and pressured them that they eventually took their own lives. There are also uncountable cases such as – LGBTs, besides the traditions and customary norms discriminating them, are further discriminated by their own families who are supposed to be their homes, and excluded by the heteronormative and patriarchal society; sexually harassed and abused, and disowned and expelled by their families; losing right to educations, proper employment and right to development; loss of livelihoods; discriminated by the public individuals; oppressed by the regional authorities; becoming victims of HIV/AIDS and many loss of lives. Many other young LGBTs become victims of forced marriage and other severe domestic violence; and many cases remain silent and un-reported to the relevant organizations because Burmese society simply takes it rather as "personal matters of other families' issues".

Furthermore, some specific laws currently enacting in Myanmar are perceived to target LGBTIQAs, to suppress and threaten their existence, self-identification and well-being and to punish them for their so-called provocative abnormalities. These kinds of laws include the Penal Code (377), Police Act 30 (C)/(D), Yangon Police Act 35(C)/(D) etc. Being restricted by such laws with their access to justice being limited, and unrecognizing LGBTIQAs as average citizens; the public community fails to acknowledge and exercising of the articles described in the Universal declaration of Human Rights, "Right to Equality, Freedom from Discrimination, Freedom from Torture and Degrading Treatment, Right to Marriage and Family, Right to Social Security" etc, as well as their "Right to Development" in alignment with the United Nations' Sustainable Development Goals and National Sustainable Development Plan – reflecting a hideous state of human rights violations in democratization of the country and leads to negative reputation for Myanmar among international communities. Under those circumstances, lack of legal intellectuals and intelligentsias, legal advisor, legal advice and legal protection for LGBTIQAs and LGBTIQAs lacking legal knowledge and awareness themselves are fuelling the social insecurities of LGBTIQAs in Myanmar.

All of these cases call for an urgent need to address the human rights violations committed against LGBTI in Myanmar for these systemic and intersectional discriminations are leading to the deprivation of "justice" for LGBTIQAs minorities.

This report is developed envisaging to raise awareness about these human rights situations of LGBTI in Myanmar and advocate for LGBTI rights. This report is a significant output of conducting “Analysis of Human Rights Situations of LGBTIQAs in Upper Myanmar Region” surveys to 85 participants from Mandalay township, MaHlaing township, Kyaukpadaung Township, Pyin Oo Lwin township, Myingyan township, Meikhtila township (Mandalay region), Monywa township, Kalay township (Sagaing region) Hopin township (Kachin state), Lashio township and Taunggyi township (Shan State) respectively. The findings of this report will emphasize on how and to what extent the LGBTIQA in those areas are facing different forms of discrimination, violence and stigmatizations by exploring the in-depths situations in – “Legal”, “Family”, “Education”, “Health care”, “Religion and belief”, “Political”, “Workplace and employment”, “Public, private and government services and infrastructures”, “psycho-social supports” sectors.

Background

1. Legal Context

LGBTI in Myanmar are being discriminated and ill-treated, being abused physically, mentally as well as sexually by the government actors and general public on a daily basis. LGBTI had long existed in Myanmar but are becoming more visible across Myanmar society especially after a landslide victory in the November 2015 election in which the National League for Democracy (NLD) formed a government in March 2016.

Myanmar practices a legal system in which laws and legislations derived from the British colonial era still prevails. Although these laws are rarely enforced in action, members of military and law enforcement officers have been using these to intimidate, harass, and arrest LGBTI people on other charges. Many of the LGBTI members are subjected to all forms of mistreatment by criminal laws and are not protected by the justice system in Myanmar. Some of these laws include the notorious Penal Code 377, Police acts and others.

1.1 Discriminatory Legislations

(A) 2008 Constitution

The 2008 Constitution of Myanmar identifies equality, liberty and justice as three eternal principles for which the country strives.¹ The Constitution refers to these principles in its Preamble and twice in Chapter I’s enumeration of Basic Principles.

Section 21(A) states that “Every citizen shall enjoy the right to equality, the right of liberty and the right to justice, as prescribed in this Constitution”.²

Section 347 of the Constitution states that, regardless of an individual’s citizenship status, “The Union shall guarantee [emphasis added] *any person* to enjoy equal rights before the law and shall equally provide legal protection.”

Furthermore, Section 353 reads “[n]othing shall, except in accordance with existing laws, be detrimental to the life and personal freedom of any person”. However, the Penal Code and the Police Act would arguably qualify as being “existing law”, the laws that undermine the international human rights standards.

In Section 348, it is prescribed that “citizens shall not be discriminated against based on “race, birth, religion, official position, status, culture, sex and wealth.” Notably absent from this list is discrimination based on the sexual orientation and gender identity of Myanmar citizens, indirectly implying that state can discriminate its citizens based on sexual orientation and gender identity.

The ruling government of Myanmar promised constitutional amendments during its succession of election in 2015, and is now making efforts to amend the Constitution. Myanmar's Union Parliament approved the Charter Amendment Committee's report which included nearly 4,000 recommendations for various changes to provisions of the nation's Constitution.³ However, it did not include amendments of Article 348 addressing non-discrimination based on "sexual orientation and gender identity".

¹Constitution of Myanmar (2008), Preamble.

²Id., Preamble, Sections 6, 21(a). Many of the rights including in the Constitution are paired with a clause designed to enable contravention of this right in certain circumstances.

³Myanmar parliament approves Constitutional Amendment Committee Report <https://www.irrawaddy.com/news/burma/myanmar-parliament-approves-constitutional-amendment-committee-report.html>

(B) The Penal Code 377

This provision of the Myanmar Penal Code is almost identical to what was Section 377 of the 1860 Indian Penal Code.⁴ Under colonial rule, Myanmar was administered as a province of British India and adopted the Indian Penal Code, among other colonial era legislation, into its system.

In Myanmar, not only does Section 377 continue to affect individuals who are accused of violating it; but its mere retention in the Penal code is a powerful symbol that lends false legitimacy to prejudices against individuals based on their real or imputed sexual orientation or gender identity/expression. 377 criminalizes any "unnatural offence".

"377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for a term of twenty years, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation – Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section."

It is generally understood – and perhaps more importantly enforced by law enforcement agencies, as a prohibition on consensual same-sex sexual relations. It is used as a tool of oppression, even without formal charges by abusing its provisions.

The prosecution must prove beyond reasonable doubt that:

- (i) The accused had carnal intercourse with a man, woman or animal;
- (ii) That such intercourse was against the order of nature;
- (iii) That the accused did the act voluntarily;
- (iv) That there was penetration.

In 2018, the Indian Supreme Court delivered a ground-breaking judgment in *Navtej Singh Johar et al & Others v Union of India and others*,⁵ which concerned the criminalization of consensual same-sex sexual conduct under Section 377 of the Penal Code⁶. The Supreme Court ruled that the section ran contrary to the Indian Constitution and went against India's international obligations. In its decision, the Indian Supreme Court underscored that Section 377 contravened the rights to privacy, equality, non-discrimination and dignity, which were enshrined in international human rights treaties binding on India. These include the

International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights. The Indian Supreme Court also noted that the Yogyakarta Principles on the Application of International Human Rights law in relation to Sexual Orientation and Gender Identity (hereinafter referred to as the Yogyakarta Principles) affirming the conclusion that criminalizing consensual same-sex sexual conduct violated fundamental rights.⁷

However, in Myanmar, Section 377 remains fully part of the criminal law, and continues to have a detrimental impact on the lives of LGBTQ individuals. To date, there has been no constitutional challenge filed against Section 377 before Myanmar's Constitutional Tribunal. UN Special Rapporteurs on the situation of human rights in Myanmar have recommended that section 377 be repealed because it violates the rights to privacy, equality and non-discrimination, among others.⁸

Although official information on prosecutions and conviction rates – especially regarding the use of Section 377 to prosecute consensual, same-sex relationships – has been difficult to access, there have been several cases that caught the attention of general public. One of the cases that went viral involves an alleged sexual assault by U Aung Myo Htut, a well-known LGBTI Yangon-based human rights activist, of his restaurant employee. The accused was arrested in March 2018, charged in the South Okkalapa Township Court under Section 377 with allegedly committing 'unnatural intercourse', and was then denied bail.⁹ Concern has been raised about the fact that his detention may be detrimental to his health. His status as an HIV-positive gay man found its way to media headlines.¹⁰

Up until the period of production of this report in 2020, there has been reportedly more than 17 arrests under the Penal Code 377 in Mandalay and as many as 50 cases in other areas including Yangon.

⁴ section 377, Indian Penal Code: Unnatural offences—Whoever voluntarily has carnal intercourse against the order of nature with any man, woman or animal, shall be punished with [imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Explanation—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section

⁵ Citation

⁶ Supreme Court of India, Navtej Singh Johr & Others.v. Union of India, (2018) 10 SCC 1 (Navtej Singh)

⁷ ICJ Briefing Paper on Navtej Singh Johar et al v. Union of India and others, available at: <https://www.icj.org/wp-content/uploads/2018/07/India-Briefing-Paper-Navtej-Advocacy-Analysis-2018-Eng.pdf> (Accessed on 21 January 2019)

⁸ Report by the Special Rapporteur on the situation of human rights in Myanmar, 23 September 2013, UN Doc: A/68/397 paras 43 and 89(a). Report of the Special Rapporteur on the situation of human rights in Myanmar, 18 March 2016, UN Doc: A/HRC/31/71 annex page 27.

⁹ 'Two people have recently been charged under Section 377, a law advocates say was rarely enforced', see: <https://equalitymyanmar.org/myanmar-is-arresting-people-for-being-gay-under-colonial-era-sodomy-law/>

¹⁰ Man files sexual abuse complaint against employer', <https://www.irrawaddy.com/news/burma/man-files-sexual-abuse-complaint-employer.html>.

(C) "Shadow" and "Darkness" Laws

Other criminal provisions also stigmatize, discriminate against, or are otherwise used to justify violence and abuse against, LGBTQ individuals. Certain colonial era laws in Myanmar, which provide for a wide ambit of police powers for the 'prevention and detection of crime'; i.e Section 30 of the Rangoon Police Act and Section 35 of the police Act, which are colloquially referred to as and known collectively among the LGBTQ community as "Shadow

Laws” or “Darkness Laws”¹¹, are a primary example of criminal laws that breed mistreatment based in whole or in part on SOGIE grounds.

Section 35 of the 1945 Police Act states that:

- (a) Any person found armed with any dangerous or offensive instrument whatsoever, who is unable to give a satisfactory account of his reasons for being so armed;*
- (b) Any reputed thief found between sunset and sunrise remaining or loitering in any bazaar, street, road, yard, thoroughfare or other place, who is unable to give a satisfactory account of himself;*
- (c) Any person found between sunset and sunrise having his face covered or otherwise disguised, who is unable to give a satisfactory account of himself;*
- (d) Any person found within the precincts of any dwelling-house other building whatsoever, or in any back-drainage space, on board any vessel, without being able satisfactorily to account for his presence therein; and*
- (e) Any person having in his possession, without lawful excuse, any implement of housebreaking, may be taken into custody by any police-officer without a warrant, and shall be punishable on conviction with imprisonment for a term which may extend to three months.*

Section 30 of the Rangoon Police Act 1899 states:

Apprehension and punishment of reputed thieves and others.

- 30. (a) Any person found armed with any dangerous or offensive instrument whatsoever, and who is unable to give a satisfactory account of his reasons for being so armed;*
- (b) any reputed thief found between sunset and sunrise lying or loitering in any bazaar, street, road, yard, thoroughfare or other place, who shall not give a satisfactory account of himself;*
- (c) any person found between sunset and sunrise having his face covered or otherwise disguised and who is unable to give a satisfactory account of himself;*
- (d) any person found within the precincts of any dwelling-house or other building whatsoever, or in any back-drainage space, or on board any vessel, without being able satisfactorily to account for his presence therein; and*
- (e) any person having in his possession, without lawful excuse, any implement of house-breaking,*
- may be taken into custody by any police-officer without a warrant, and shall be liable to imprisonment which may extend to three months.*

These laws exist both at the union level and state level, as codified in Section 35 of the Police Act 1945, and Section 30 of the Rangoon Police Act 1899. Some of their provisions are vague and overbroad (e.g., failing to specify what counts as a ‘satisfactory account’ for ‘being found in a public place between sunset and sunrise’) and are therefore open to serious abuse. Law enforcement agents too easily invoke these provisions to harass, arrest and even bring spurious charges against LGBTQ people. The fact that these laws are colloquially referred to as the “Darkness Laws” and the “Shadow Laws” reflects their arbitrary nature. These laws give law enforcement officers wide latitude to arrest LGBTQ persons during the evening and night-time hours. Indeed, many arrests are carried out with spurious and vague accusations such as “you are in the dark, you have an agenda to do something.”¹²

In addition, several other criminal provisions have been used to harass, intimidate and detain LGBTQ persons. They include the crime of “Public Nuisance”, under Section 268 of the Penal Code, and Section 320 of the Penal Code criminalizing the act of “emasculatation”.

¹¹ Some commentators use these terms to refer specifically to subsections (b)-(d) of the criminal provisions referenced above.

¹² "In the shadow" report published by ICJ <https://www.icj.org/wp-content/uploads/2019/11/Myanmar-In-The-Shadows-Advocacy-Report-2019-ENG.pdf> : page 9 – quote from Interview with respondent

(D) 1949 Suppression of Prostitution Act

The Suppression of Prostitution Act was enacted back in 1949 in Myanmar. Section 3 of the Act states –

"Anyone who, at the public roads, public spaces, regular public pedestrian lanes, or at seeable and hearable distant house, building, room, aquatic vehicle or land vehicle,
(A) *Solicits verbally or physically or shamelessly by exposing one's physique or genitals or in any other forms; or*

(B) *Interferes, prevents or wandering near-by or persuades someone to engage in prostitution; or*

- *Shall be punished with hard labour and imprisoned for no less than 1 years or more than 3 years. If the perpetrator is a woman, she shall be detained and imprisoned at a prescribed center as a punishment.*

It provides offences for soliciting, living on the earnings of prostitution, procuring persons to engage in prostitution, owning or managing a brothel or renting premises for use as a brothel, and aiding and abetting prostitution.¹³ Under the act, sex workers can face up to three years imprisonment or be detained in a "prescribed center", and individuals responsible for owning or managing sex work premises can receive up to five years imprisonment.¹⁶ Section 7 of the Act enables police to arrest sex workers merely on the basis of their reputation.¹⁵ An amendment to the Suppression of Prostitution Act 1949 was enacted in 1998 to broaden the definition of "brothel" to include any house, building, room, vehicle, vessel, aircraft or place habitually used for the purpose of prostitution or used with reference to any kind of business for the purpose of prostitution.

However, law enforcement officers target LGBTI sex workers under Section 3(A) and (B) of this Act to allegedly detain, arrest and investigate them. Some transgender women HIV Health Education social worker found with a box of condoms and gel was threatened to be prosecuted under this law¹⁷ regardless that Condoms, previously used as evidence of prostitution, were prevented from being used as evidence to be found guilty of violating this law under an administrative order which was issued in 2011.¹⁸

¹³ Suppression of Prostitution Act 1949.

¹⁴ Section 3 of the Suppression of Prostitution Act 1949.

¹⁵ UNDP, UNAIDS, Pyoe Pin. National HIV legal review report: review of Myanmar's legal framework and its affect on access to health and HIV services for people living with HIV and key affected populations, September 2014, p.34.

¹⁶ ^{^ a b c} "Push to decriminalize sex work, but stigma remains". IRIN (in French). 14 January 2014. Retrieved 24 July 2018.

¹⁷ Interview with respondent Code MDY5001

¹⁸ "Sex Work Law - Countries". *Sexuality, Poverty and Law*. Retrieved 24 July 2018.

(E) Draft Prevention of Violence Against Women (POVAW Law) 2020

In an effort to domestically implement CEDAW that the government of Myanmar ratified, it has been drafting "Prevention of Violence Against Women" Bill and has officially announced it on the national gazette, Kyay Hmone on January 25, 2020 for public review.¹⁹

In the following bill, "women" is defined as "a human female regardless of any ages". Such definition is vague and not inclusive of women based on sexual orientation or gender

identity, especially LGBTQ women. Enactment of this bill with no further revision to the definition of “women” to be more inclusive would be in direct violation of the rights of LGBTQ women citizens in Myanmar.

¹⁹Prevention of Violence Against Women Bill Draft released

1.2 Protective Legislations

(A) National Youth Policy

The National Youth Policy²⁰ was introduced by the State Counsellor in January 6, 2018²¹ and became official at the Union level on January 2018. The policy provisions the following.

- Section 24(C) states that “the provisions of this policy shall be in alignment with the international human rights standards.” Section 24(E) reads “There shall be no discriminations on the grounds of sex, sexual orientation or gender identity, traditions, cultures, religion or belief, race, language, disability or any other physical and psychological status in implementing this policy.” Section 24(F) states that “Diversities of the youths’ backgrounds, socio-economic status of their families and their own life styles shall be well recognized.”
- Section 26, sub-section (F) identifies “youths with different sexual orientation and gender identity (LGBTI – lesbian, gays, bisexuals, transgender, intersex)” as one of the youths to be subjected to special priorities.
- Section 33, Article 4 of sub-section (A) states “to guarantee a safe learning space with no stress or discriminations. Article 7 of sub-section (A) states “to effectively teach basic health education, sexual and reproductive, gender and sexual orientation education, concepts of disabilities and other health-related educations as life-skills and social skills.” Article 2 of sub-section (B) states “to ensure access to quality health care system trusted by the youths for their physical and psychological health.” Article 8 of sub-section (B) states “to provide quality health and social services, psycho-social supports for youths who experienced violence, human trafficking, sexual and physical exploitations and who face different forms of conflicts.”

With such provisions, the Policy also aims to promote the role of youths in employment, economic, political, literature, art, culture, science and technology sectors.

(B) Child Rights Law

Since Myanmar is a signatory to the Convention on the Rights of Child (CRC), it has developed and enacted “Child rights law” recently in 24 July 2019²² as a domestic legislation to implement CRC in accordance with international human rights standards.

The law defines children as those under the age of 18 and provisions the following.

- Chapter 1, Section 1, sub-section (xxi) defines discrimination as “discriminations based on citizenship, race, ethnicity, social origin, color, sex, language, religion or belief, designation, standards, culture, rich or poor, disability, politics or sexual orientation”²³.
- Sub-section (xxiii) prohibits psychological abuse and sub-section (xxiv) prohibits sexual abuse.
- Section 20 states that “complaints for impediments or violations of any child rights shall be submitted by the child himself or herself or his/her legal parents on behalf or any other relative to the respective committee, government department, government institution or court.

- Section 46(A) states that “Every child shall be granted with rights to education without any discriminations”.
- Section 56 prohibits any physical, psychological or sexual abuse that causes detriments or harms children.

The Child Rights Law is inclusive of LGBTI youths. However, many people in Myanmar are still not aware of the detailed provisions of this law and hence more awareness raising and implementation is needed.

²⁰ Myanmar	National	Youth	Policy
https://drive.google.com/file/d/1ztQtunpWMwH_LGRetZSKgHBHWDvQpBtX/view?fbclid=IwAR1DJYEOD5lmgsg_RTi8S2-0Ykh9k_NZygEDEZz3eB4Ut0XCX29WnggZcSc			
²¹ Myanmar Youth Policy released	https://www.burmalibrary.org/docs24/GNLM2018-01-06-red.pdf		
²² Myanmar	fully	committed	to child rights, development
https://www.globalnewlightofmyanmar.com/myanmar-fully-committed-to-child-rights-development/			
²³ Link to the pdf of Law in Burmese Language Origin	http://www.myanmar-law-library.org/law-library/laws-and-regulations/laws/myanmar-laws-1988-until-now/national-league-for-democracy-2016/myanmar-laws-2019/pyidaungsu-hluttaw-law-no-22-2019-child-law-burmese.html		

2. National Human Rights Institution

Like many other countries, Myanmar had established its own national human rights mechanism known as Myanmar National Human Rights Commission (MNHRC). It was first formed on September 5, 2011 and consisted of 11 retired bureaucrats and academics. The MNHRC has a track record of being slow and unresponsive, with commissioners failing to investigate allegations of rights abuses or hold perpetrators accountable. The commission is also not empowered to enforce its findings in cases when it does act, severely weakening its power. For the past few years, it had been criticized for its disqualified performance both in promoting and protecting human rights; remaining in silence especially around the issues of sexual orientation, gender identity/expressions and sex characteristics.

In June 2019, in the case involving a former librarian of Myanmar Imperial University who committed suicide due to forced outing of his sexual orientation and workplace bullying²⁴, the Commission released a report concluding that ‘the victim was mentally weak’ and that there was no violation of his rights, despite the mobile phone screen-shots of messages from the victim’s coworkers mocking him which were posted on online social media by the victim himself and went viral.²⁵ LGBTI rights organizations and activists were hugely disappointed by the Commission’s stand on this case of LGBTI-related human rights violation.

In 2020 January, the MNHRC was reformed with new commissioners who are mainly retired government officers and hence being criticized.²⁶ The change-up is mandated by law but it also offered a chance for the government to create an effective, fully functional human rights body to investigate and protect against abuses – a chance the government appears to have passed on since the new commissioners are former civil servants mainly from the government-related sector with merely no human rights background or expertise²⁷.

²⁴ <https://myanmarmix.com/en/articles/myanmar-librarian-dies-by-suicide-after-homophobic-bullying>

^{25,26} <https://www.aseantoday.com/2020/01/how-myanmars-government-passed-up-two-chances-to-address-human-rights-while-on-trial-for-genocide/>

²⁷Reform of Myanmar Human Rights Commission Lacks Transparency, critics say : <https://www.irrawaddy.com/news/burma/reform-myanmar-human-rights-commission-lacks-transparency-critics-say.html>

3. Obligations to protect LGBTI rights under international human rights frameworks

Myanmar, as a party to several human rights treaties is obligated to respect, protect and fulfil LGBTQ people's human rights. This duty requires Myanmar to protect LGBTQ persons from human rights violations carried out by state actors, private actors, and other third parties. While Myanmar has not ratified International Covenant on Civil and Political Rights (ICCPR), treaties by which it is bound to include the International Covenant on Economic, Social and Cultural Rights (ICESCR),²⁸ the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),²⁹ the Convention on the Rights of the Child (CRC)³⁰ and the Convention on the Rights of Persons with Disabilities (CRPD).³¹

Article 2 of ICESCR clearly states non-discrimination of ESC rights on the basis of 'race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'³². Article 3 of ICESCR³³ also states to grant equal rights, with article 12³⁴ highlighting right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Article 2 of CEDAW requires State parties to condemn discrimination against women in all forms.³⁵ Additionally, Article 2 of the CRC requires that State Parties take all appropriate measures to ensure that children are protected against all forms of discrimination, including on the ground of sex.³⁶ Furthermore, the terms 'other opinions' and 'other status' used in all non-discrimination provisions of the following treaties encompasses discrimination based on sexual orientation and gender identity.

Accordingly, Myanmar is obliged under its existing international law commitments to prevent and prohibit discrimination of women and children – based on sexual orientation and gender identity.

²⁸ International Covenant on Economic, Social And Cultural Rights (ICESCR), entered into force 3 January 1976, Myanmar signed in 16 July 2015 and ratified on 6 October 2017

²⁹The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), entered into force 3 September 1981, Myanmar acceded on 22 July 1997

³⁰ The Convention on the Rights of the Child (CRC), entered into force, 2 September 1990, Myanmar acceded on 15 July 1991.

³¹ The Convention on the Rights of Persons with Disabilities (CPD), entered into force 3 May 2008, Myanmar acceded on 7 December 2011.

^{32,33,34}International Covenant on Economic, Social and Cultural Rights (ICESCR) : <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

³⁵ Article 2, Convention on the Elimination of All Forms of Discrimination Against Women, United Nations, Treaty Series vol. 1249, p 13.

³⁶ Article 2, Convention on the Rights of the Child, United Nations, Treaty Series, vol. 1577, p. 3.

C.A.N-Myanmar's Vision and Missions

Our Vision: To share knowledge about human rights both generally and in regard to specific mineralized populations, practice the corresponding ethics in daily life, prevent the violations of human rights, and encourage the sharing spirit and personal accountability in Myanmar society.

Our Missions

- We prevent and reduce general- and identity-specific human rights violations in Myanmar society.
- We encourage people to defend human rights effectively and promote responsible and accountable community.
- We creatively and effectively educate and organize in order to prevent and reduce human rights violations.
- We share knowledge about human rights in order to make Myanmar a stronger democracy and civil society.
- We are an independent non-profit organization consisting of volunteers committed to the tenets above.

Survey Methodology

C.A.N-Myanmar had published several reports highlighting human rights violations against LGBTI. However, this report documents relatively recent and emblematic cases of discriminations and mistreatments, and analyses the conditions and extent to which these circumstances are occurring. This research was conducted only in the project targeted township, especially Upper region of the Republic of the Union of Myanmar and hence the cases documented are as limited as a tip of an ice-berg when compared to the who national picture and shall, in no mean, represent the totality of LGBTI experiences in Myanmar.

At the first stage of the process, a workshop was conducted to produce the survey questionnaires which were developed in consultation with the LGBTI organization leaders and activists from the targeted townships. This survey integrates both qualitative and quantitative approaches. The survey data collection took place in the project targeted townships from January to March 2020, and reached as many as (85) LGBTI respondents who participated in in-person interviews or focused group discussions. Every respondent interviewed also completed a written survey about SOGIE-based discriminations in the context of socio-economic sectors as well as in other aspects of life. All the interviews and written surveys were conducted in Burmese and the LGBTIQA leaders and activists who participated in the survey questionnaire development consultation workshops themselves served as excellent interviewers in collecting these genuine, valid and legitimate evidences and testimonies from the respondents.

All respondents gave their informed consent to participate in this research and to use the evidences and testimonies they provided in this report. None of them were offered any remuneration. To protect the respondents' security and privacy, this report refers to respondents using pseudonyms unless the specific respondent strongly preferred that the report use the respondent's real identities.

(Sample survey questionnaires can be found in Appendix-A).

Scope of study

This study was conducted with the respondents from –

Mandalay Region – Maharaungmyae township, Aungmyaytharzan township (Mandalay city), MaHlaing township, Kyaukpadaung Township, Pyin Oo Lwin township, Myingyan township, Meikhtila township, Nyaung Oo Township;

Magway Region – Magway township, Yezagyo township, Pyaw Bwe township, Sin Paung Wel township, Pakokku township;

Sagay Region – Shwebo township, Monywa township, Kalay township

Kachin State – Mogaung township

Shan State – Taunggyi township, Lashio township;

- respectively.

This report does not cover other townships located in the lower regions of Myanmar.

Moreover, we intended by this research to further produce a shadow report to submit to the 37th session of United Nation’s Human Rights Council’s Universal Periodic Review (UPR) and hence the cases collected in this research occurred between 2015 and 2020. Additionally, this research only covers 52 respondents from the following townships and hence do not represent the whole LGBTI community throughout Myanmar, however, it can be speculated that similar cases are being experienced by LGBTI from various social backgrounds in the different regions of Myanmar.

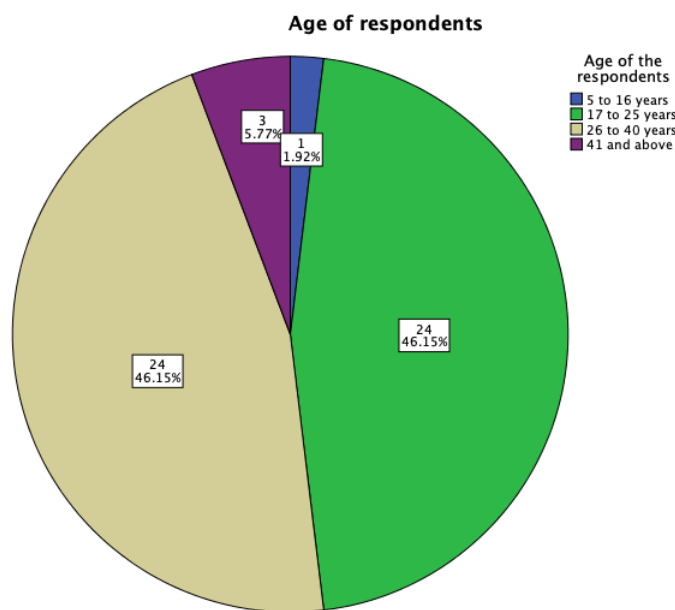
<Map of Myanmar – pin-point the townships of the respondents>

Chapter (2) – Research Findings

Section (A) – General Characteristics of the Respondents

(1) Age of respondents

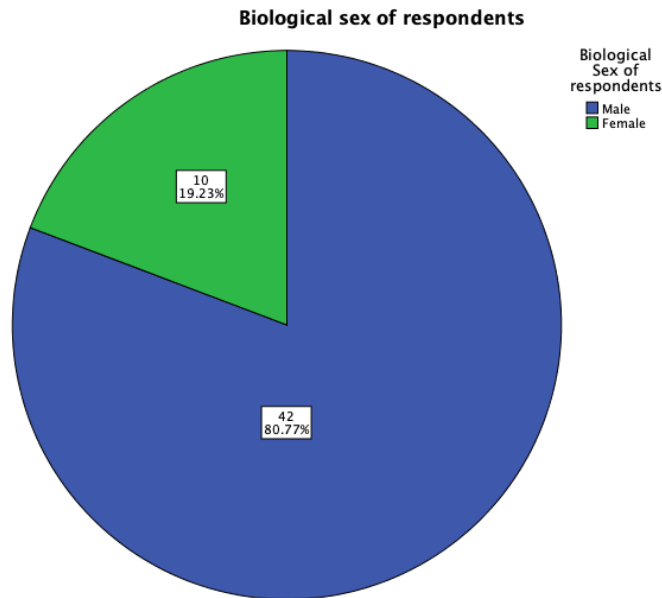
It was found that the majority of the respondents (46%) belong to the age group of “17-25 “ and “26-40”; with 6% followed by “41 and above” and the rest 2% under 16. In other way, nearly all of the respondents participated in this study are youths.



2.1 Age of respondents

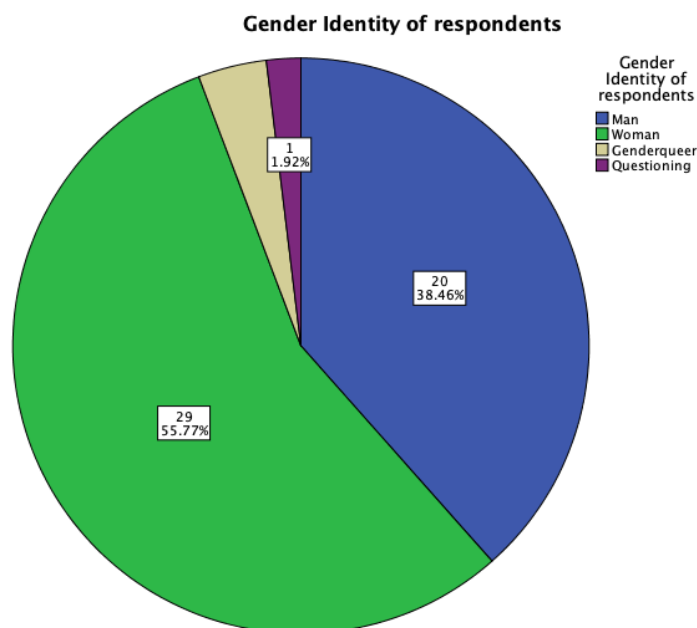
(2) Biological Sex of respondents

The major 81% of the respondents are found to be biologically male where the rest 19% are biologically female. No intersex respondents participated in this study.



2.2 Biological Sex of Respondents

(3) Gender Identity of respondents

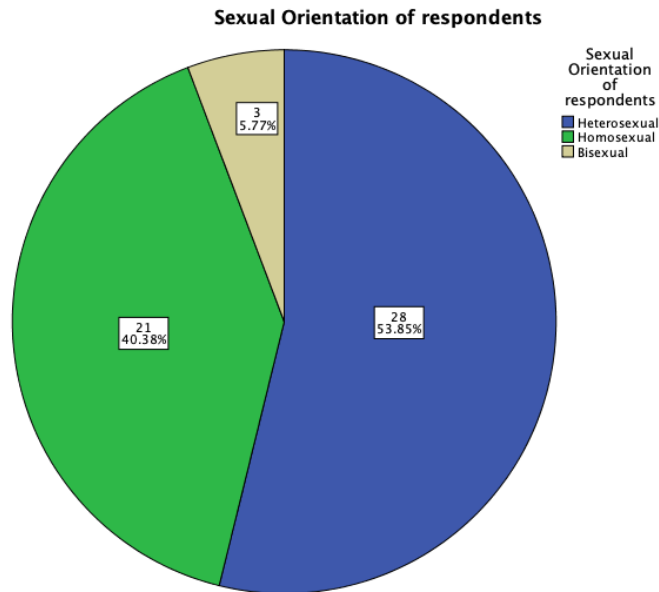


2.3 Gender Identity of Respondents

According to the data findings, 56% of the respondents identifies as women, with 38% identifying as men, 4% Queer and the rest 2% questioning.

In this study, there were 1 lesbian, 10 gays, 3 bisexuals, 8 transgender men, 28 transgender women and 2 queers (Total of 52).

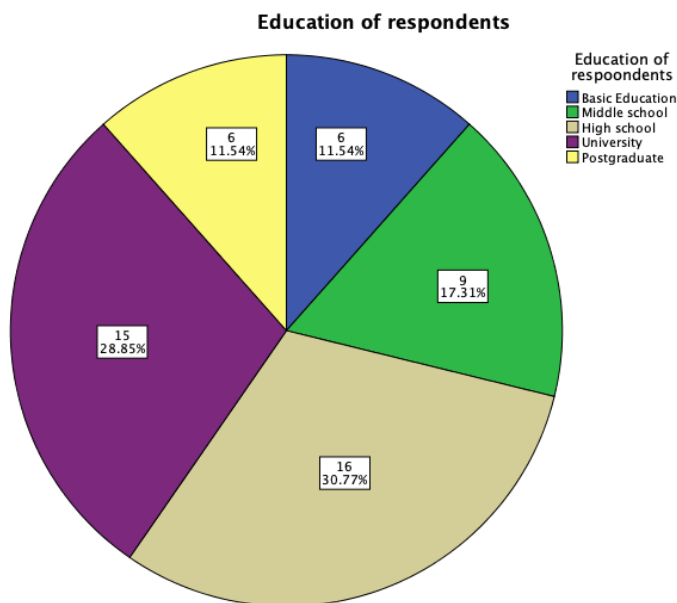
(4) Sexual orientation of respondents



2.4 Sexual Orientation of Respondents

Most of the respondents are found to be – heterosexual at 54%. The rest 40% were gays and 6% bisexual. There was no pansexual or polysexual respondents.

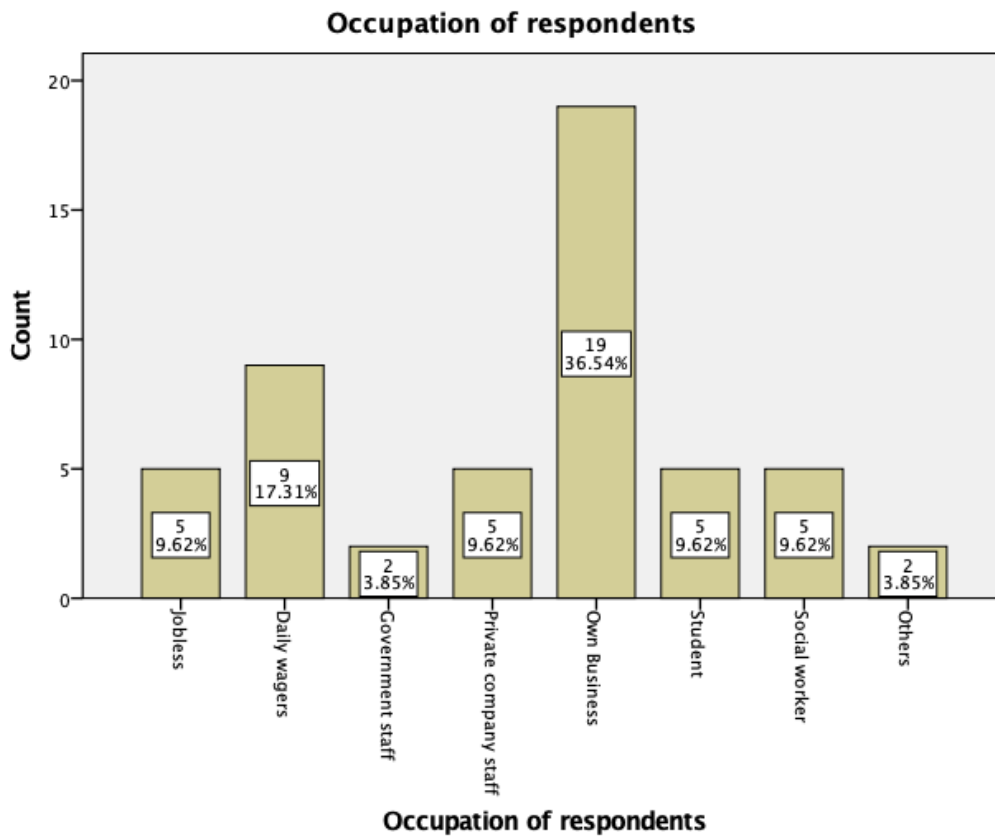
(5) Education of respondents



2.5 Education of Respondents

The majority of respondents (31%) have received high school education; and 29% College education, 17% Secondary education and the rest 12% each has received either basic (primary level) education or Postgraduate educations respectively.

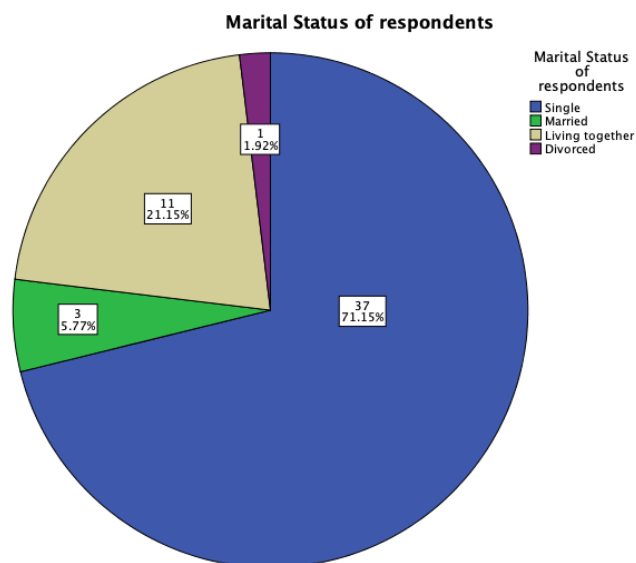
(6) Occupation of respondents



2.6 Occupation of Respondents

About one-third of the respondents, 37% operates their own business – the rest 17% being daily wagers, 10% each being either jobless or private company staff or student or social workers – with a few being government staff and other (make-up and floral artists or spiritual dancers).

(7) Marital status of respondents



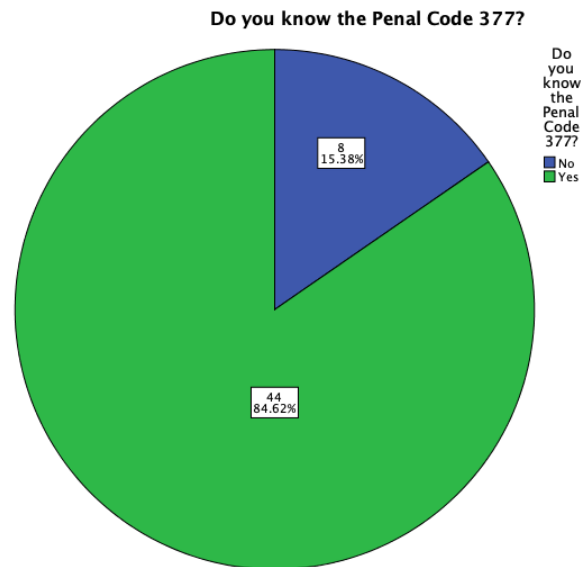
2.7 Marital Status of Respondents

Most of the respondents, 71%, are single whereas 21% of them are “not married but living together” and 6% “legally married” and the rest 2% “divorced”.

Section (B) – Awareness of LGBTI-rights, Human Rights and Knowledge of Legal Context

(A) Knowledge on Domestic Legislations

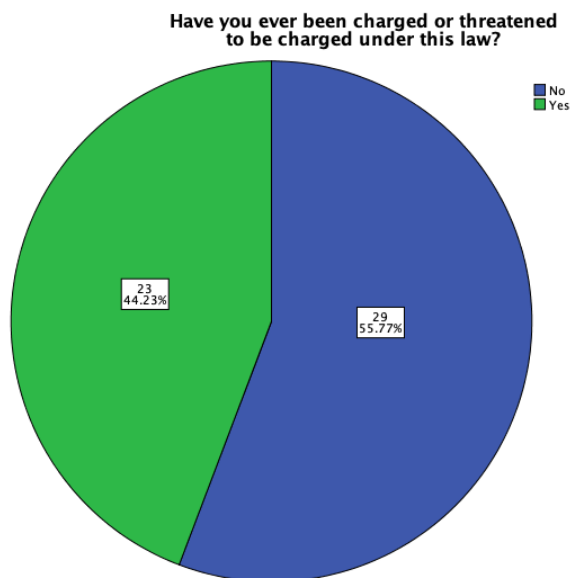
(1) Knowledge of the Penal Code 377



2.8 Respondents' Knowledge of 377

85% respondents mentioned that they know what the Penal Code 377 was and the rest 15% mentioned that they did not. This shows that most of the respondents are already familiar with the Penal Code 377, probably because they have encountered cases related with the Penal Code 377.

(2) Human Rights cases under the Penal Code 377



2.9 Human Rights Violations Encounters under Penal Code 377

The research team also interviewed the respondents whether they had ever been charged or threatened to be charged under the Penal Code 377. 44% of the respondents said they have encountered cases where they were threatened to be charged under the Penal Code 377.

"I was out with my friends around Myodaw park. They captured us and checked our belongings, and said 'what are you perverts doing here? Do you want to be charged under 377?' And then they confiscated some of our things, along with 50,000 MMK cash. They also took front and back pictures of us, said it was for the station's records."

(Respondent Code MDY2002, Mandalay)

"Unnatural offence" is often the phrase that the law enforcement officers, especially Polices, deploy to make LGBTI eligible to be charged under the Penal Code 377. The act of human rights violations related to the Penal Code 377 includes abuse of power and threatening, committing torture, intimidation and bribery – causing the victims'

"They took me and my boyfriend (booty call) to the station. They released him moments later but threatened me to charge under 377 unless I offer them money. Since I did not have any cash with me, they asked for my ring and I had to give it to them to buy my way out."

(Respondent Code MG2002, Magway)

"When I was walking along Kan Thar Yar, a man in a Police uniform approached me and demanded me to come along with him and threatened me to beat if I refused. He then took me on his motorcycle to the station. At one corner, he started to lowered his pants down and penetrated me. I tried to push against him but couldn't and had to let him do it. After he was done, he asked for money agreeing to let me go. I escaped only because I did"

(Respondent Code MY1002, Monywa)

physical, psychological and sexual detriments.

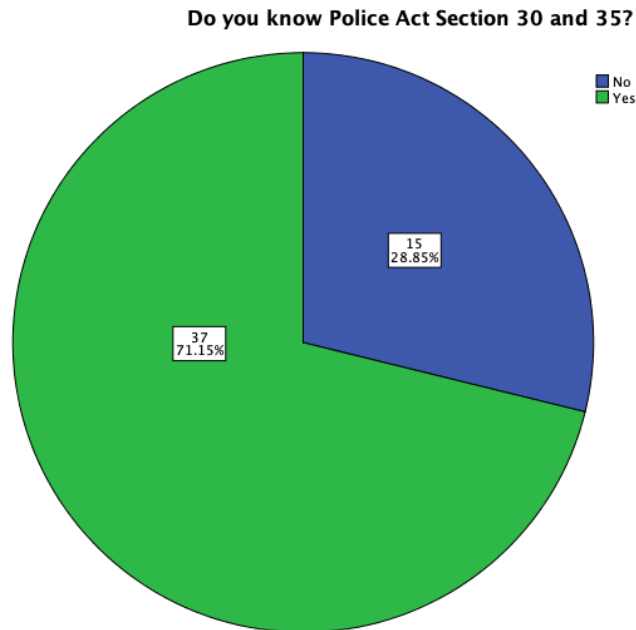
The respondents told the research team that LGBTI, especially transgender women are targeted to be charged or threatened under 377.

"My experience was in 2017. I was dressed as a woman and out with one transgender man friend. At one corner of the street, the drunk police officer approached us and then threatened me to charge 377. He started to punch me, my friend was scared and ran away. And then he demanded to have sex with me if I don't want to be arrested under 377. I had to agree with him because I don't want to be imprisoned."

(Respondent Code LSH1002, Lashio)

In some cases, the police guards would often capture transgender women and take them to the police stations to investigate, force them to sign documents (Often a Letter of commitment that states that they would not be dressing as women and cause public disturbance or nuisance in the future again) and beat and torture anyone who refuses to do so. In some cases, the police would ask for money or force the victims to satisfy their sexual needs if they don't want to be arrested under 377.

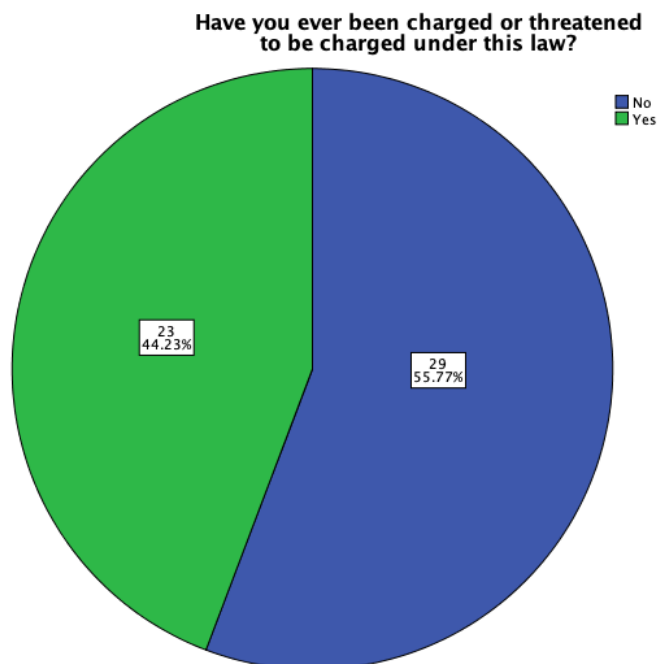
(3) Knowledge of Police Act Sections 30 and 35



2.10 Respondents' Knowledge of Police Act Sections 30 and 35

Most of the respondents (71%) mentioned that they know Police Act Sections 30 and 35. This also shows that most of the respondents are already familiar with the Police Act Sections 30 and 35, probably because they have encountered cases related with the Penal Code 377.

(4) Human Rights cases under Police Act Sections 30 and 35.



2.11 Human Rights Violation Encounters under Police Act

44% of the respondents mentioned that they have been charged or threatened to be charged under Police Act Section 35.

Section 35 of Police Act is widely headlined as “Darkness Laws” by the police officers to target LGBTI, especially gay men and transgender women wandering around public places after dark.

“I think I it was around 8 P.M. They said I was arrested under Darkness Law, took me to the station and put me in a cell. They kept me in a separate cell, without letting me provide any explanations. Then they beat me on my head with a stick.”

(Respondent Code LSH2002, Lashio)

The police officers, whether on duty or off duty without a proper uniform, would capture transgender persons wandering around public places at night times – to threaten and intimidate, beat and torture them. Similarly to the acts of

“They threatened to arrest me under Darkness Law, asking me money. And then they squeezed my boobs and said, ‘act like this again in the future and you will be arrested under 377. That’s all for now.’ I gave them money and they let me go.”

(Respondent Code MG2002, Mogaung)

“It was around 11 P.M. I was with one of my friends at the top of the bridge and two undercover cops came towards and said, ‘these perverts must be punished to knock some sense into them to act properly’. They slapped us in our faces, both me and my friend.”

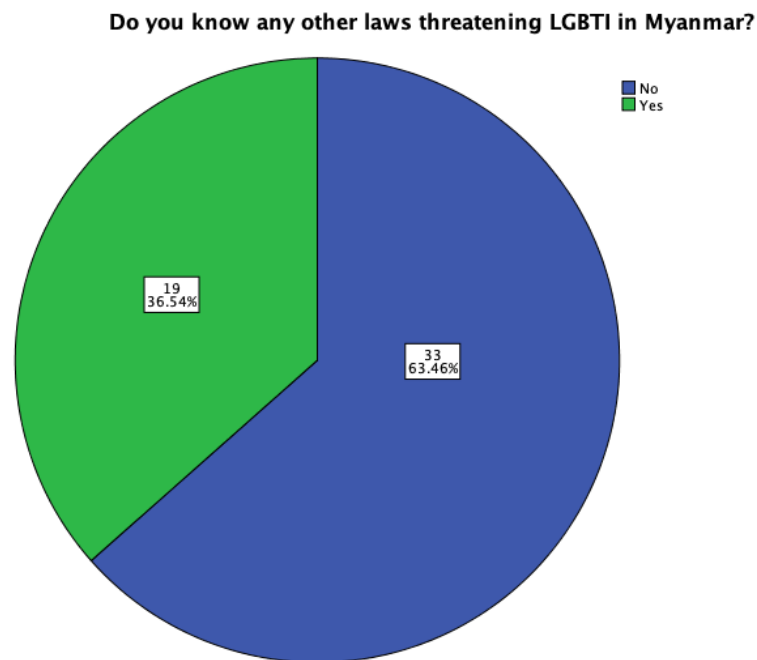
(Respondent Code PKU2002, Pakokku)

human rights violations under Penal Code 377, the police officers would harm them physically, psychologically and sexually. They would also ask for money from the victims if they wanted to escape without getting arrested because under Police Act Section 35, one can face up to 3 months imprisonment without any chance of bail.

“I remember it was around 7 P.M. And I was not even in the dark, I was standing under the street lights. But they took me to arrest under Darkness Law and on the way, they said, ‘give us money if you want to settle at this point or else you are going into jail’. When I paid, they let me go.”

(Respondent Code TGI1002, Taunggyi)

(5) Other laws and legislations threatening LGBTI in Myanmar

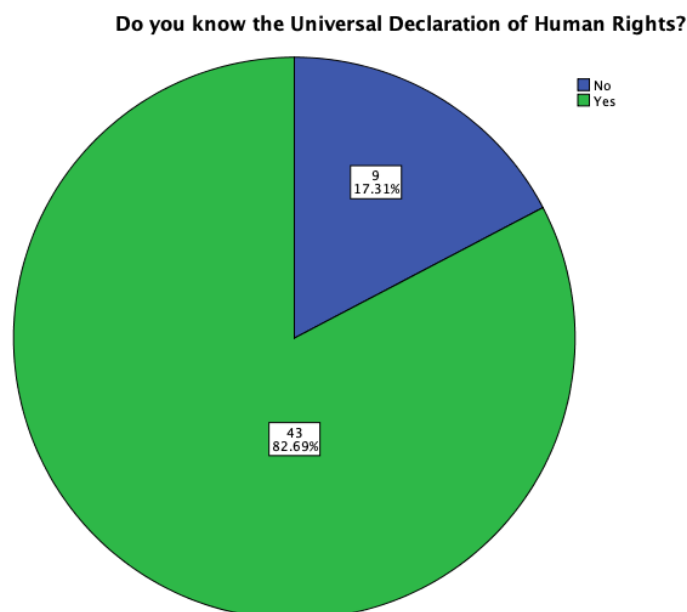


2.12 Respondents' Knowledge of other laws threatening LGBTI

Over half of the respondents, 63%, mentioned that they did not know any other laws threatening the human rights of LGBTI in Myanmar such as Anti-prostitution Act and Penal Code 312 (A) and (B).

(B) Knowledge on International Human Rights Frameworks

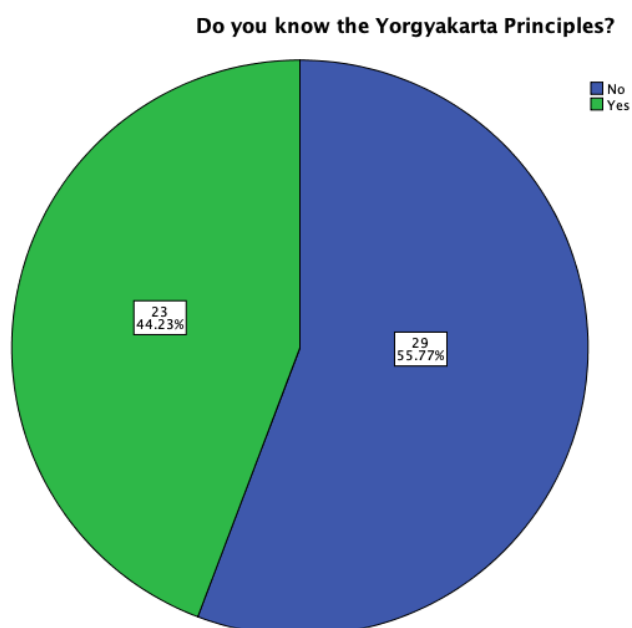
(1) Knowledge of Universal Declaration of Human Rights (UDHR)



2.13 Respondents' Knowledge of UDHR

Most of the respondents, 83% mentioned that they know the Universal Declaration of Human Rights (UDHR).

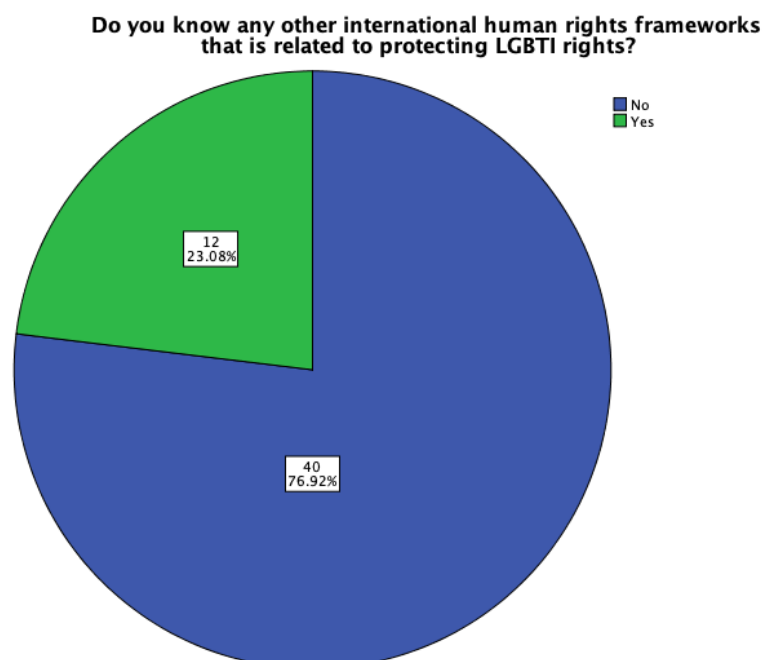
(2) Knowledge of Yogyakarta Principles



2.14 Respondents' Knowledge of Yogyakarta Principles

Over half of the respondents, 56% said that they did not the Yogyakarta Principles, which is important principles for implementation of human rights of LGBTI individuals.

(3) Knowledge of other international human rights mechanisms and conventions



2.15 Respondents' Knowledge of other International Human Rights Frameworks

About 77% of the respondents mentioned that they did not know any other international human rights frameworks related to protecting LGBTI rights such as ICCPR, ICESCR, CEDAW, CRC and CRPD ect.

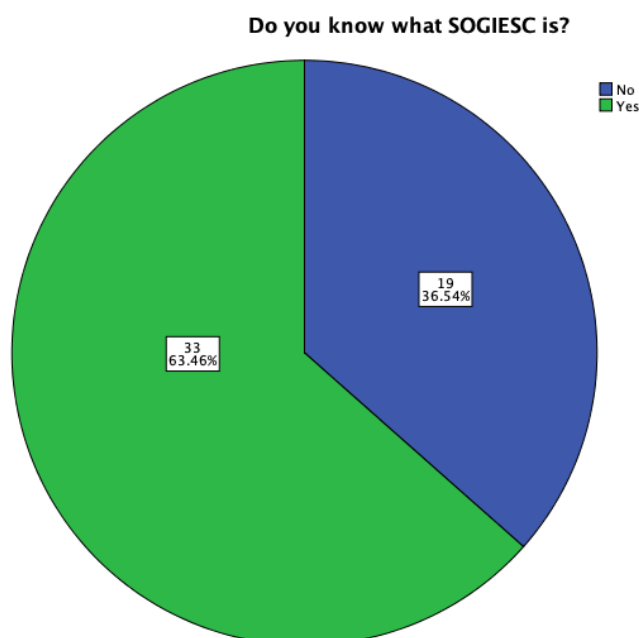
The following data shows that LGBTI in Upper Myanmar themselves have little knowledge and awareness about the human rights frameworks related to protecting their rights.

(C) Knowledge of Sexual orientation, Gender Identity/Expressions and Sex characteristics (SOGIESC)

In the year 1992, under the International Classification of Diseases, ICD-10, homosexuality and bisexuality according to World Health Organization (WHO) is officially removed from the list of 'mental or psychological disorder'.³⁷ In the year 2017, WHO also announced removal of "transgender" from ICD-11, becoming a milestone for LGBTI communities across the globe.³⁸ Sexual Orientation, Gender Identity and Expressions and Sex Characteristics are born-with and cannot be chosen. Therefore, a person's gender expressions may not always be the same with his or her biological sex. Most people debate gender diverse people as deviations. This leads to various forms of discrimination, stigma and social exclusion, including physical and psychological abuse, bullying, prosecution, or economic alienation. The United Nations organization is well aware of these situations and has assigned a special rapporteur on SOGIESC to explore the human rights violations committed towards LGBTIQAs on a global scale, also granting funding opportunities for LGBT focused organizations throughout the world to empower SOGIE based knowledge and LGBTIQAs rights. Awareness of SOGIESC is a vital part in fighting against human rights violations committed against LGBTIQAs people. In Myanmar, many LGBTI themselves do not know about the nature of their sexual orientation and gender identity and hence, cannot defend their rights violated based on SOGIESC.

According to the data, LGBTI respondents from the targeted areas seem to have average knowledge regarding SOGIESC.

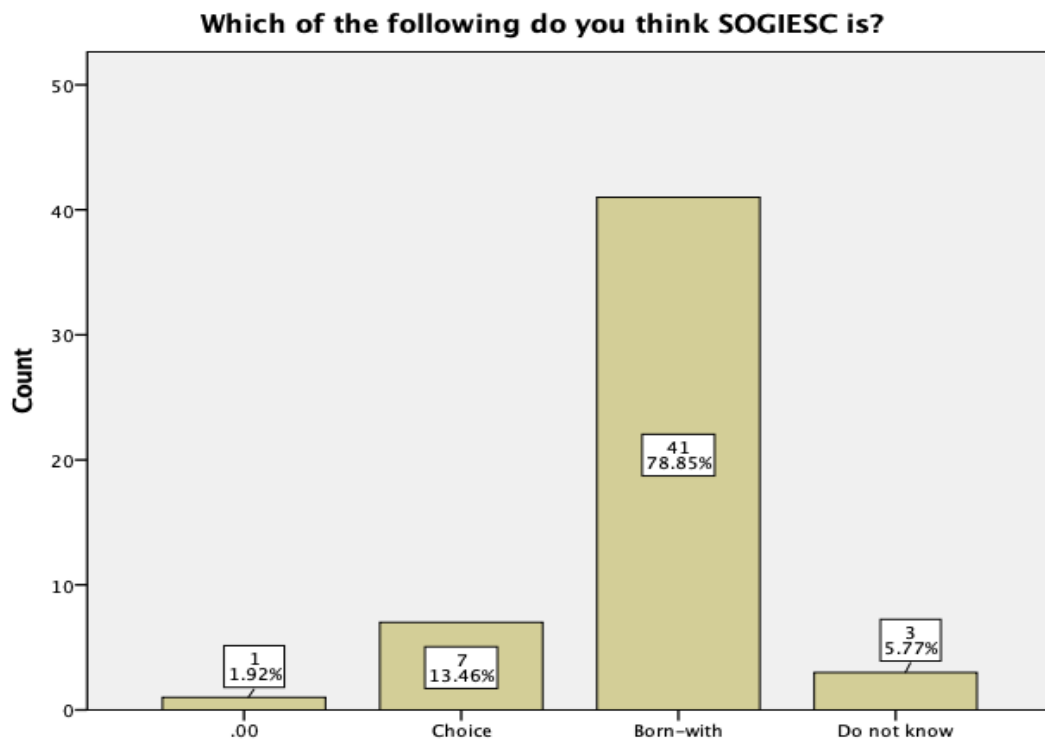
(1) Knowledge on sexual orientation, gender identity/expressions and sex characteristics (SOGIESC)



2.16 Respondents' Knowledge of SOGIESC

Over half of the respondents, 63%, mentioned that they know what sexual orientation, gender identity/expression and sex characteristics (SOGIESC) is.

Their answers to the additional question to analyze their actual knowledge of SOGIESC can be found accordingly.



2.17 Respondent's response on what SOGIESC is

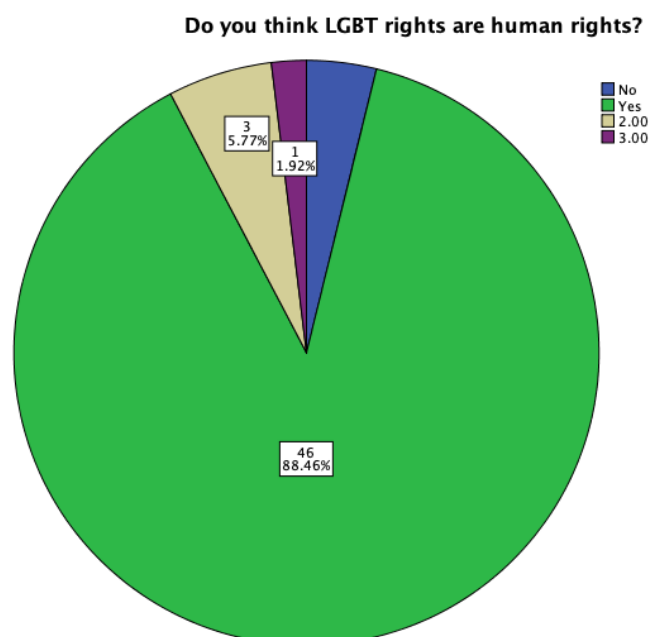
79% of the respondents selected SOGIESC as something that a person is born-with whereas 13% think it is a choice, with 6% unknown to what SOGIESC is.

³⁷Homosexuality stopped being a mental disease. <https://www.psychologytoday.com/us/blog/hide-and-seek/201509/when-homosexuality-stopped-being-mental-disorder>

³⁸ "Transgender" no longer classified as mental disorder <https://www.independent.co.uk/life-style/transgender-world-health-organisation-mental-disorder-who-gender-icd11-update-a8932786.html>

(2) Knowledge on LGBTI Rights

(2.1) LGBTI and Human Rights

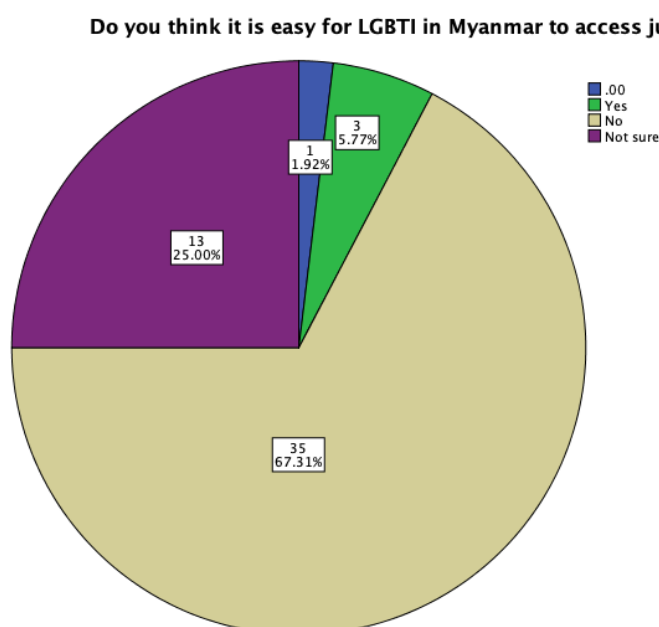


2.18 Respondents' response on whether LGBTI rights is human rights

Most of the respondents, 88%, think that LGBTI rights is human rights. This shows that the respondents have a basic understanding of LGBTI rights within the framework of human rights.

(2.2) LGBTI's Access to Justice in Myanmar

Over half of the respondents, 67%, said that they did not think that it was easy for LGBTI in Myanmar to easily access justice.



2.19 Respondents' opinion on access to justice for LGBTI in Myanmar

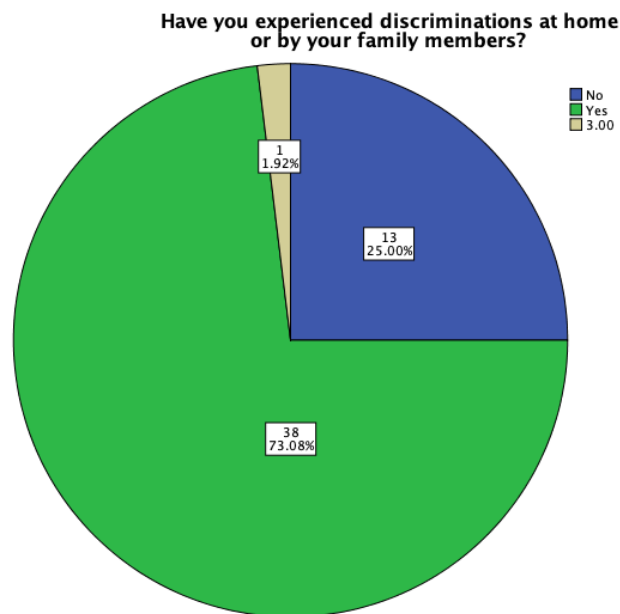
Section (C) – Human Rights Violation Experiences and Encounters

1. Human Rights Violation in Family sector

(1) Domestic and Family Violence Situations

Many LGBTI face stigma, discriminations and exclusions among extremely conservative families in Myanmar. Their parents, brothers and sisters and family members often regard their 'sexual orientation or gender identity' as 'a sign of abnormality' or 'deficiency' – only accepting heteronormative and cis-normative cultures. Many LGBTI youths, who express gender identities other than their biological sexes, easily become targets of family hatred and are seen as 'black sheep' of the family; and are discriminated on a daily basis.

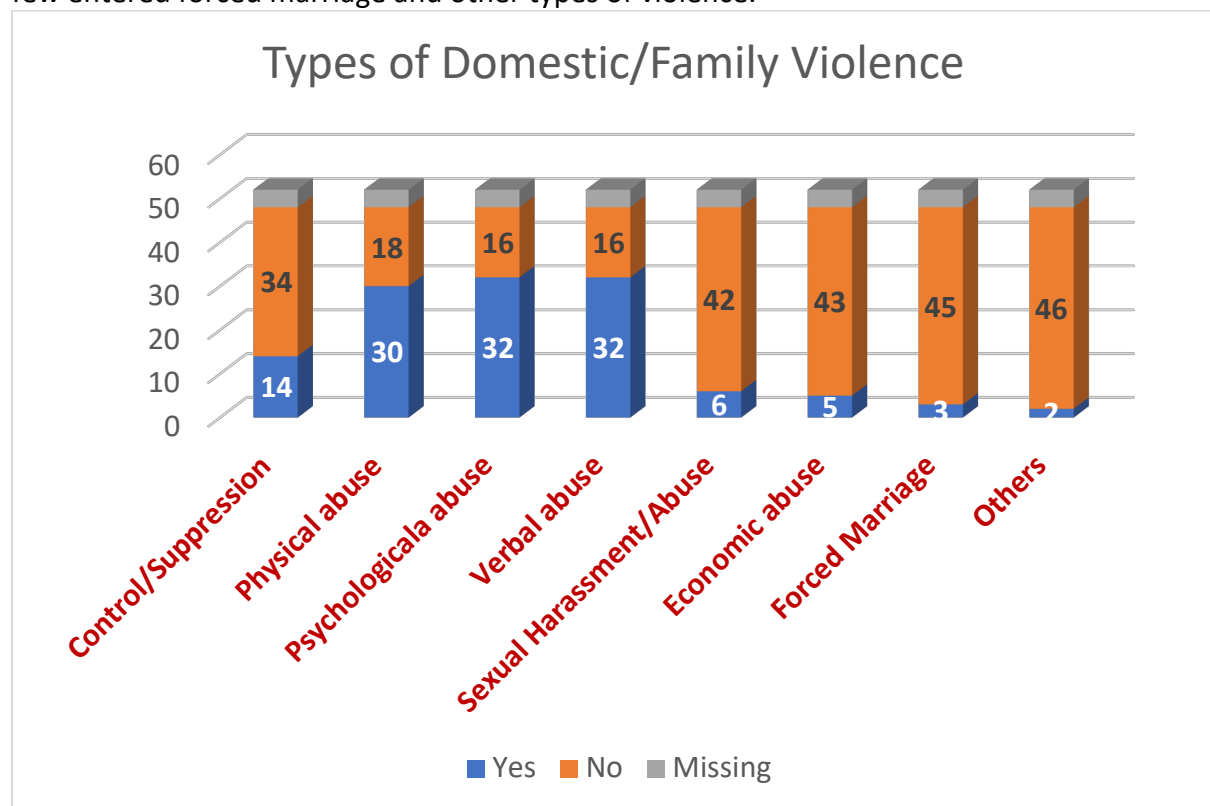
They face physical, psychological and sexual violence as well as economic abuse. In this research, 73% of the respondents mentioned that they had faced domestic and family violence in their lives; whereas 25% said they had not and 2% did not respond to the question.



2.20 Respondents' Experience of Domestic and Family Violence

(2) Types of discriminations or violence involved and Case studies

Under the section of multiple-choice questions on the types of discriminations or violence involved in the respondents' experiences of domestic and family violence, the majority 62% entered psychological and verbal abuse; 58% physical abuse; 27% control/suppression; 12% sexual harassment or sexual abuse; 10% economic abuse; and a few entered forced marriage and other types of violence.



2.21 Types of Domestic/Family violence that respondents faced

Further detailed interviews were conducted by the research team to collect cases of domestic and family violence that the respondents faced.

Physical violence often includes acts of torture such as beating, punching, slapping,

"My father beat the crap out of me in front of a crowd because I dressed up as a woman. I got bruises and cuts."

***(Respondent Code TGI2002,
Taunggyi)***

kicking, caning and throwing at with objects.

"I was using my phone. My brother started to curse me 'you want to get f**ked that much? Take this' and punched me in the face."

***(Respondent Code PKU2002,
Pakokku)***

"They found out I was having a relationship with a girl as a transman and they kicked me out from their home."

***(Respondent Code MH1001,
Mahlaing)***

respondents – often accusing that they bring shame to the members of their family with their abnormalities. LGBTI youths are

"I was under a rough patch with my family and relatives when they found out my sexuality. I was also raped by my own uncle."

***(Respondent Code MDY7002,
Mandalay)***

economically, affecting their personal developments.

Such family discriminations and domestic violence are mainly based on the sexual orientation or gender identity of the

"When my parents found out that I was gay, they forced me to marry a woman with so many threatening that I finally had to marry. That was the darkest moment of my life"

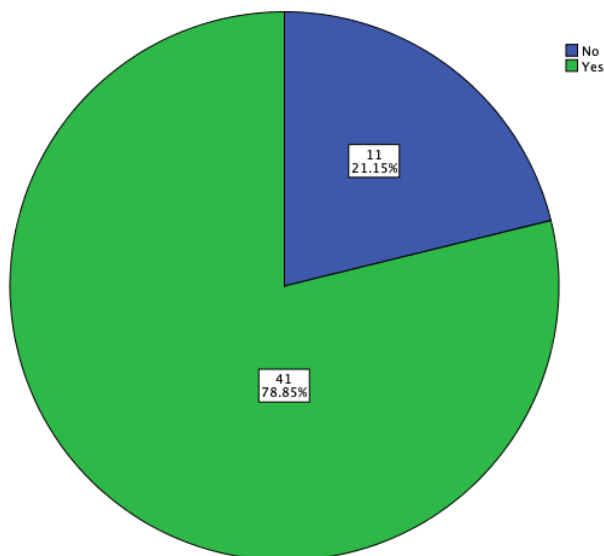
***(Respondent Code LSH2002,
Lashio)***

rejected, excluded and even expelled from their homes. They suffer from verbal abuse, physical abuse and sometimes, sexual abuse. In some other situation, LGBT youths are sexually exploited by their own family members and are even forced to go into a heterosexual marriage against their wills. Some LGBTI youths are controlled

(B) Human Rights Violations in Education Sector

(1) Discriminations in Education Sector

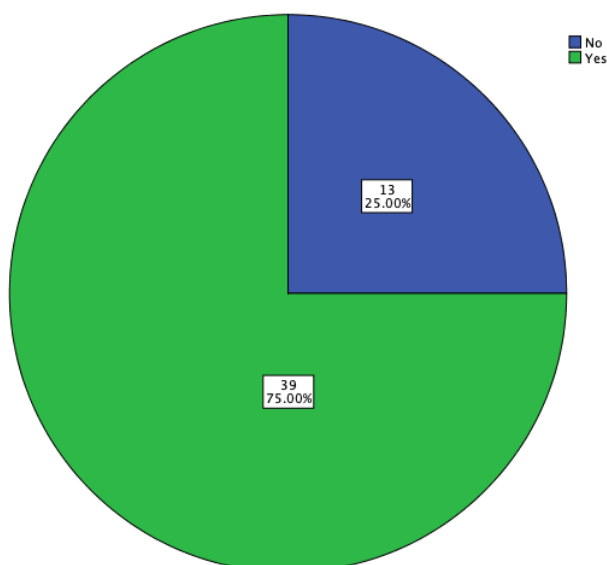
Have you ever heard of LGBTIs being discriminated in schools or learning places?



2.22 Familiarity with LGBTI discriminations in schools or learning places

79% respondents answered that they have heard of LGBTI being discriminated at schools or in learning places within their environment. In further questioning about their own experiences, 75% of the respondents said that they have been discriminated at schools.

Have you ever been discriminated at schools or in learning places?



2.23 Respondents' experience of discrimination at schools

(2) Case studies

At schools, LGBTI persons are discriminated by the responsible staffs – the school (subject and class) teachers, principals and other school staffs. Such discriminations are mainly based on the sexual orientation and gender expressions of the respondents. Types of discriminations include physical violence, verbal abuse, psychological abuse and sometimes, sexual assaults.

“Whenever there is a mention of ‘naponedaga pandoke’³⁹ in school lectures, the teachers would put me in a spotlight to show the whole class as an example”

(Respondent Code LSH1002, Lashio)

LGBTI students are bullied, suppressed, excluded or neglected by their fellow students – imposing negative impacts on their physical and psychological well-being; and affecting their social lives. Respondents also highlighted the failure of responsible staffs at schools to defend their rights.

"At high school, my teacher told me to go wash my face right away when she saw me wearing Burmese traditional Thanakhar. She said, 'you woman or gay or what. Are you going to marry a man or woman when you grow up?' in front of the whole class."

(Respondent Code MDY5001, Mandalay)

"It was in 2015 when the Minister of Education was going to pay a visit to our school. I had to sit in the front row of the class due to my visual impairment but the teachers say, 'this feminine guy would bring shame to the whole class. Put him at the back of the class'. I had to sit at the back of the class for that whole day."

(Respondent Code MDY3002, Mandalay)

For example, on January 2019, transgender men students at No. 8 Basic Education High School were collectively discriminated⁴⁰ by their Principal and a few other teachers and the respondent MDY5002 provided the testimony accordingly.

"About 50 transgender men student from Grade 7, 8 and 9, including me, were called upon by the Principal. Each of us were then given a piece of paper to write down answers that the Principal asked -

"Why do you cut short hair", "Are you against the order of nature?", "Do you want to have a father and a father? A mother and a mother? Or a father and mother?", "Can't you just stay as a woman?", "Who is more beautiful? Man or woman?", "Do you want to eat rice with rice? Or rice with curry?"

And then were asked to raise our hands if we accepted the order of nature. Those who said they did not accept, had to give their names to the teachers. Those who said that they accepted nature were asked to transform back to their cisgender state and act like a woman. Their front and back pictures were taken by the Principal to keep track of their corrective performance."

"She also claimed, "Half-by-half are never to be trusted.""

"11 students including my friend who said not accepting the nature were again called by the Principal and told – not to group with more than two friends during class times, recess or off-hours; not to use social media and threaten that she would call to the Principal office and punish those who do not follow those rules."

(Respondent Code MDY5002, Mandalay)

“I always get scolded if I don’t wear cisgender uniform. No matter how I wear as a man, I am always forced to play women’s games during school activities.”

(Respondent Code MH1001, Mahlaing)

Additionally, students are discriminated in doing extra-curricular activities such as sports.

Moreover, not only at the Basic education level, LGBTI students at Higher education level also face discriminations due to their open sexual orientation or gender identity/ expressions.

“During 2017-2018 First year exam, I was told ‘If you don’t wear women Htamain⁴¹, you are not allowed to attend classes or sit for exams. You must wear Htamain.’. During the whole exam hours, the guard teacher would look at my student card, and then again the gender non-conforming me. I was being looked down on and it was a very awkward and inconvenient experience for me.”

(Respondent Code MDY1002, Mandalay)

Respondent Code LSH2001 from Lashio also shared his experience, ***“It was University Assembly. I was given an example of individual who cannot be distinguished between male or female – in front of 150 students. All of them were laughing at me. I was embarrassed and couldn’t go to school for a week.”***

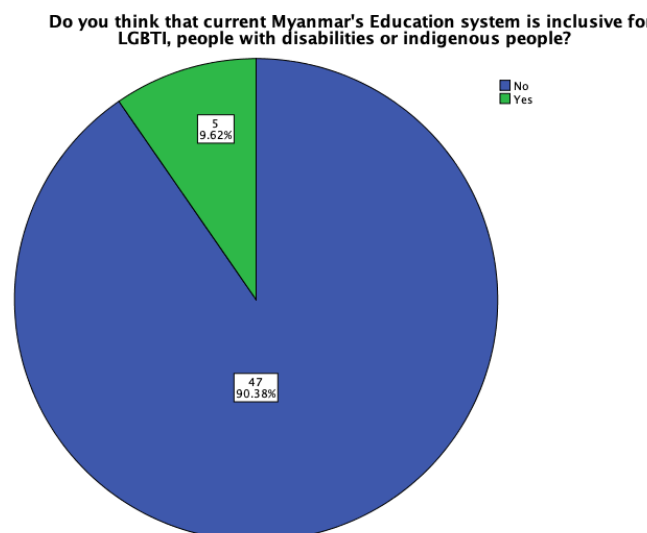
³⁹ ‘Naponedaka Pandoke’ is a Pali word meaning those who cannot be sexually distinguished between man and woman.

⁴⁰ Collective Statement of Human Rights CSOs/Activists on the case of SOGIE-based discriminations Committed against Transgender Men Students by the Principal and responsible teachers from No.8 Basic Education High School in Aungmyaetharzan Township of Mandalay Region

https://www.facebook.com/dylangeoryan.mcowen.9/posts/768745463604879?notif_id=1581893516907951¬if_t=feedback_reaction_generic

⁴¹ “Htamain” is a traditional Burmese women wear for the lower part of the body from the waist down.

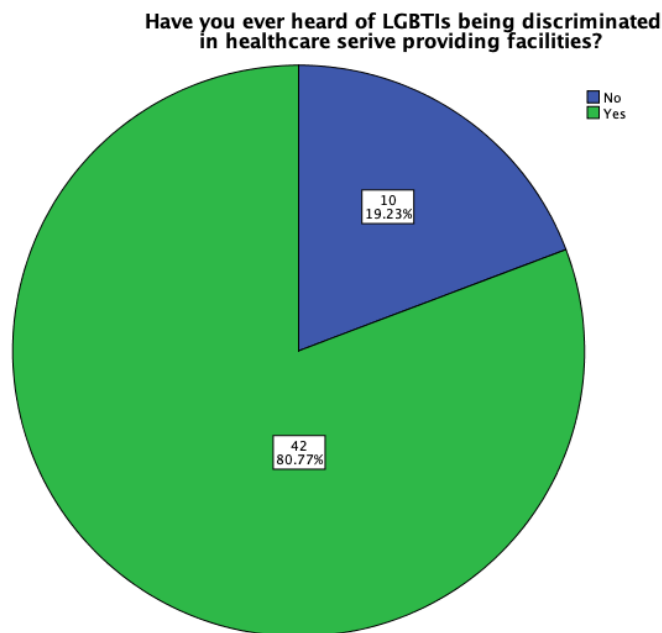
(3) Opinions on Myanmar Education System



2.24 Respondent’s Opinions on Inclusiveness of Myanmar Education System

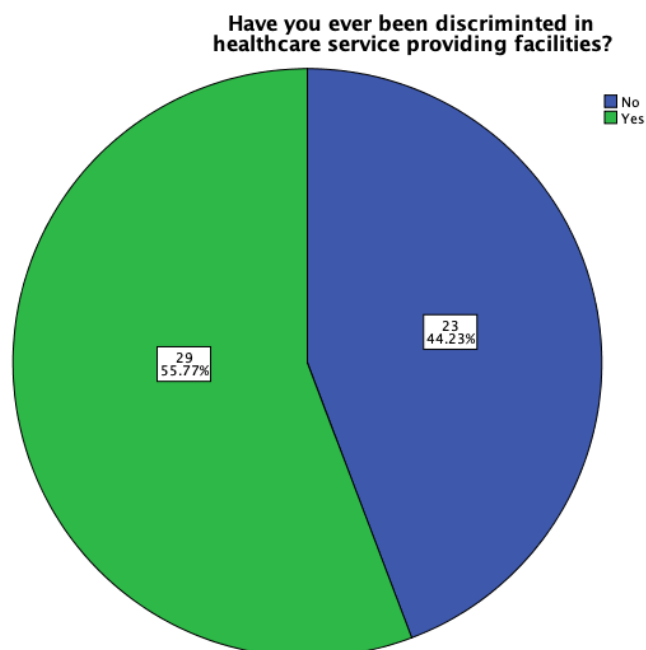
(C) Human Rights violation in Health Care sector

(1) Discriminations in Health Care sector



2.25 Familiarity with LGBTI discriminations in Health Care sector

Most of the respondents, 81%, mentioned that they have heard of LGBTIs within their environment being discriminated in health care sector. In further questioning about their own experiences, about 56% of the respondents mentioned that they have been discriminated in health care sector.



2.26 Respondents' experience of discriminations in health care sector

(2) Case studies

LGBTIs are discriminated in health care sector based on their sexual orientation and gender identity. They are mistreated especially by the responsible persons – doctors, nurses and aids and other staffs working at different levels of Ministry of Health and Sports Myanmar – in health care service providing facilities such as private, public or governmental hospitals and clinics. Discriminations are often associated with verbal abuse, physical or psychological abuse and sexual harassments.

“Whenever I feel sick and go to the clinic, I am gossiped with the whispers saying ‘this gay has HIV. He is on ART.’ I am always presumed that way. I am treated in disgust by the staffs there.”

(Respondent Code MDY7001, Mandalay)

sexual predators under an impression that they are overly sexually active and carriers of sexually transmitted diseases such as HPV or HIV. LGBTIs are often being denied from donating bloods at different health institutions or centers.

“At NAP office in Taunggyi, I was being yelled at and verbally abused. I was being discriminated.”

(Respondent Code TGI1001, Taunggyi)

at the HIV prevention or HIV health care service providing facilities – such as National Aids Program centers. Staffs from those departments often commit verbal abuse, physical and psychological abuse against the PLHA LGBTI clients. Respondents mentioned that staffs from those centers would deliberately let personal data (HIV status) breach against the LGBTI clients – beside their facilities being flawed with spaces/ infrastructures not reliable for personal security of the visitors or clients.

“I broke my arms and was hospitalized. The nurse would look at my long nails and said, ‘I can get transmitted diseases from gay perverts like them’. I was never treated as well as she did to other patients.”

(Respondent Code SB1002, Shwebo)

Additionally, LGBTI are also restricted and excluded from contributing in the health care sector. LGBTIs are being seen as

“I was denied from donating blood just because I am gay. I was literally said to go away.”

(Respondent MTL1001, Pyawbwe)

LGBTI people living with HIV (PLHA) are also being targeted for more outrageous discriminations. They are often mistreated

“When I go to collect my medications at clinics, they would call out my cisgender name and as I walk up, they would laugh at me or look down on me.”

(Respondent Code MDY4002, Mandalay)

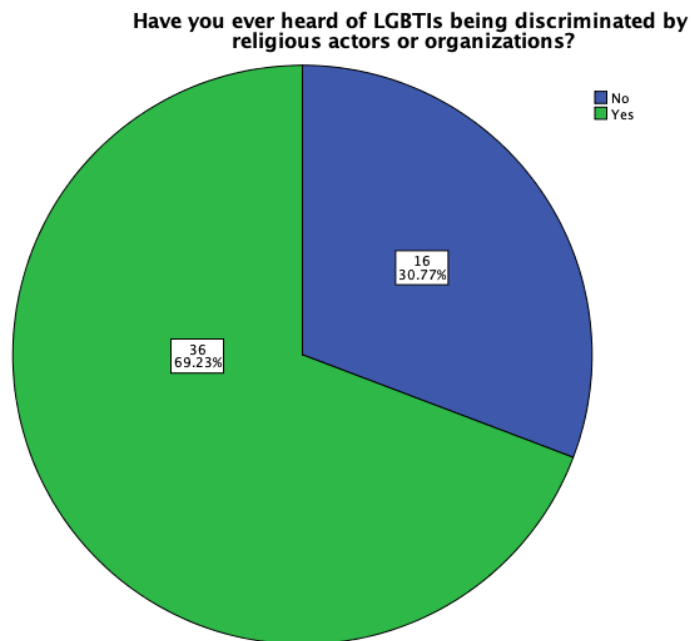
Challenges in accessing health care services

The respondents mentioned that beside the financial barriers, they have difficulties accessing the health care service providing facilities such as hospitals and clinics mainly because of their gender identity or expressions. Many of the facilities are served with

cisgender-friendly installments – such as toilets, washrooms, restrooms ect. They also mentioned that bad public relations of the staffs working at those facilities often cause miscommunications with the LGBTI clients. The respondents said that LGBTI clients often face delays in obtaining services from those facilities compared to other cisgender citizens.

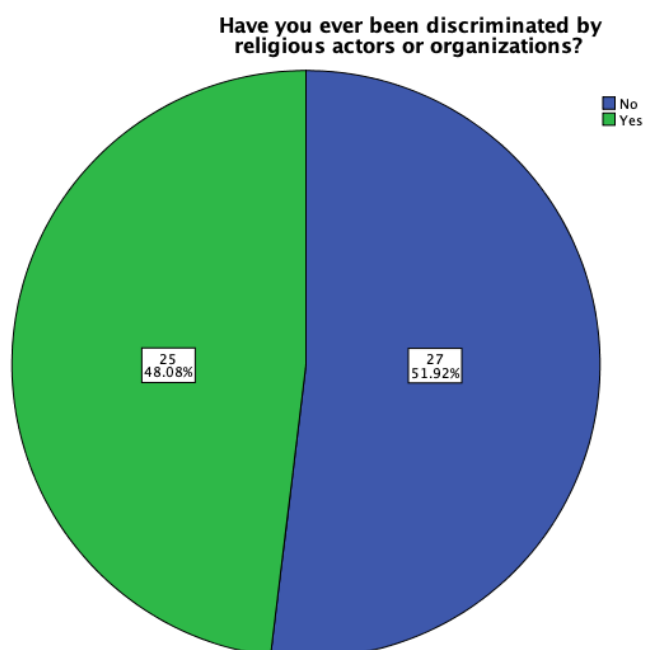
(D) Human Rights violation in Religion and Belief sector

(1) Discriminations in Religion and belief sector



2.27 Familiarity with LGBTI discriminations in Religion or Belief sector

69% respondents mentioned that they have heard of LGBTIs within their environment being discriminated in religion or belief. In further questioning about their own experiences, about 48% of the respondents mentioned that they have been discriminated in religion or belief sector.



2.28 Respondents' experience of discriminations in religion or belief sector

(2) Case studies

Homosexuality is often taught as a 'sin' in the religious doctrines in Myanmar – Buddhism, Christianity or Islam. According to the teachings of Buddhism, people become LGBTI in this life because they had committed adultery in their past lives. All forms of deviated sexual orientations apart from heterosexuality are condemned in all those religious cultures. These condemnations are followed by the discriminations committed against LGBTI believers or non-believers by the religious actors or organizations.

Types of discriminations include direct discriminations against LGBTIs through verbal, physical or psychological abuse or indirect discriminations such as – spreading misinformation about sexual orientation or gender identity or expressions and/or spreading hate speech against LGBTIs among general public. **One prominent example is the case that happened in 2019 in which the Nationally recognized 9-titled Awardee Buddhist Monk 'Ashin Arsara' caused a commotion among Burmese Dhamma hearing audiences in one factory compound in Thailand by saying – “if I ever became the President, I would beat Gay people to death. Are there any Gay audiences in this crowd, if yes, beat them fellows!”. Some of the LGBTI audiences in the crowd had to start running away.**⁴²

In some other cases, discriminations in religion or belief sector are associated with **“conversion therapy”** that aims to cure homosexuality or bisexuality to return to the state of heterosexuality. Carrying out such therapies is in direct violation of LGBTI people's Right to basic human dignity, right to freedom of expression and right to conscience.

In August 2018, a facebook page named “Media for Christ Shwe ရွှေခေါင်းလောင်းဆရာ တော် ရွှေအလင်းပေးသူ” uploaded a controversial video with the title saying “Homosexuality demon is gone. Free from homosexuality sin.”⁴³ The video showcases a young man who appears to be gay and was cured from homosexuality by the pure power of priest via god's blessing. The video was first uploaded on 2018 but went viral in late 2019 and attracted over 1.5 million viewers. As a consequence of misinformed propaganda of this video, PFLAG-Myanmar psycho-social support SOS-hotline services implemented by CAN-Myanmar received around 12 young LGBTI clients in 2019 who told the team of having conservative Christian parents who saw that video and had forced them to undergo a therapy session at the following priest. Buddhist parents also force young LGBTI children to go and serve at the religious monasteries; or get ordained and become monks in order to cure their homosexual minds.

“When my dad found out that I was gay, he sent me to the monastery to serve a monk. I was there for 5 months. I also get beaten by the monk instead of just getting scolded for accidentally breaking a dining table.”

(Respondent Code MTL1001, Pyawbwe)

According to the respondents, LGBTIs are being discriminated by the religious actors on a very large scale. Such discriminations are based on the sexual orientation and gender identity of the respondents. Religious actors

“I was requesting to get ordained but the monk refused and told me to get lost because apparently, I am transgender.”

(Respondent code LSH1001, Lashio)

such as monks and priests would – force and teach LGBTIs to act normally and to stay

“The monk said ‘Don't come to my monastery during special occasions dressing like that. No auspiciousness. No luck and you are a jinx to our whole village.’”

(Respondent Code TGI1002,

heterosexual; deny their peculiar gender expressions; refusing to let worshipping or to enter a place of worship ect.

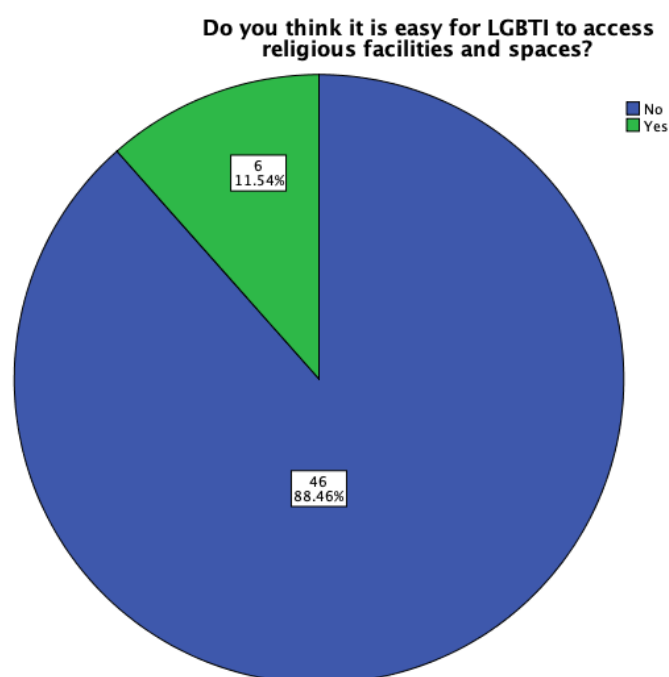
Respondent MTL2001 from Myitthay township also shared his experience – *“The pastor confronted me to follow god’s will and be just a woman. Because acting like this, like a man, isn’t so practical in religion. When I go out with other side of my Buddhist relatives, there the monk again gives me lectures and confront me to get properly married to a man and raise a family like all other good women do.”*

Respondent MDY5001 also shared her experience that – *“I was offering Waso robe to the monk residing at the monastery in my ward. In front of my relatives and audiences, he wished for me to become a “man” next life and be able to observe Dhamma for all these merits I had done that day. People started to give mocking smiles and I was very embarrassed that day.”*

⁴²Buddhist Monk ridicules Myanmar Gay librarian who died by suicide. <https://coconuts.co/yangon/news/buddhist-monk-plays-suicide-of-lgbtq-librarian-for-laughs-video/>

⁴³ Controversial “Christian Conversion Therapy” to cure homosexuality published on facebook <https://www.facebook.com/mediaforchrist.saiaye/videos/323368161739452/>

(3) Do you think that it is easy for LGBTI to access religious buildings and facilities?



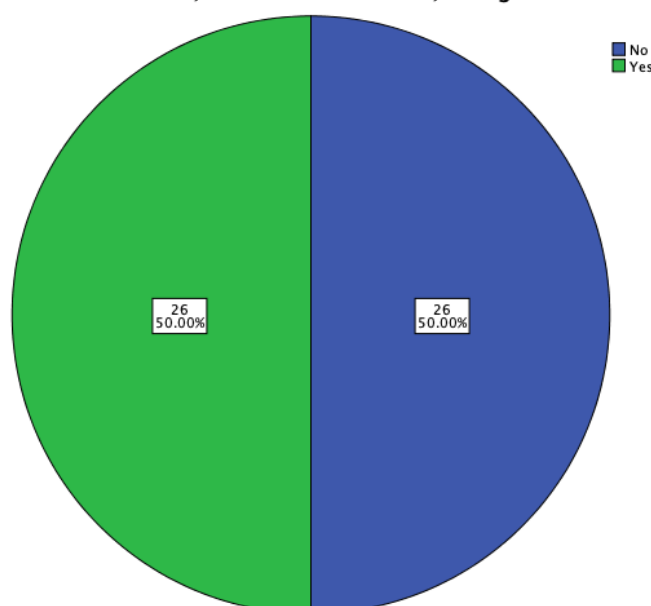
2.29 Respondent’s opinion of LGBTI’s accessibility of religious facilities and spaces

Based on the experiences that the respondents had or the experiences of their other LGBTIs friends within their environment, 88% of them mentioned that they did not think that it was easy for LGBTI to access religious facilities and spaces.

(E) Human Rights violation in Social/Political sector

(1) Discrimination in political sector

Have you ever heard of LGBTI being discriminated in forming political associations, election candidatures, voting or election observations?

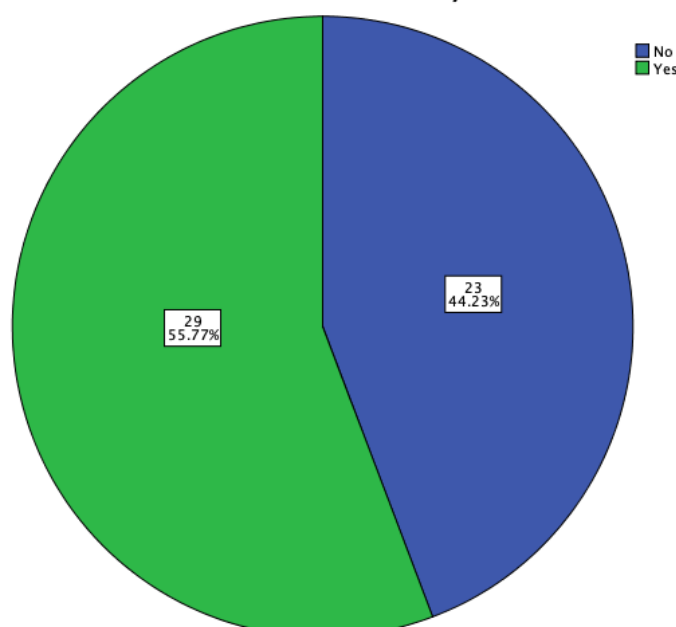


2.30 Familiarity with LGBTI discriminations in political sector

Respondents were asked to answer if they had heard of LGBTI being discriminated in political sector such as formation of political associations, competing as election candidates, election voting or election observations. Half of the respondents, 50%, said yes.

(2) Discrimination in social sector

Have you ever heard of LGBTI being discriminated in social or charity activities?

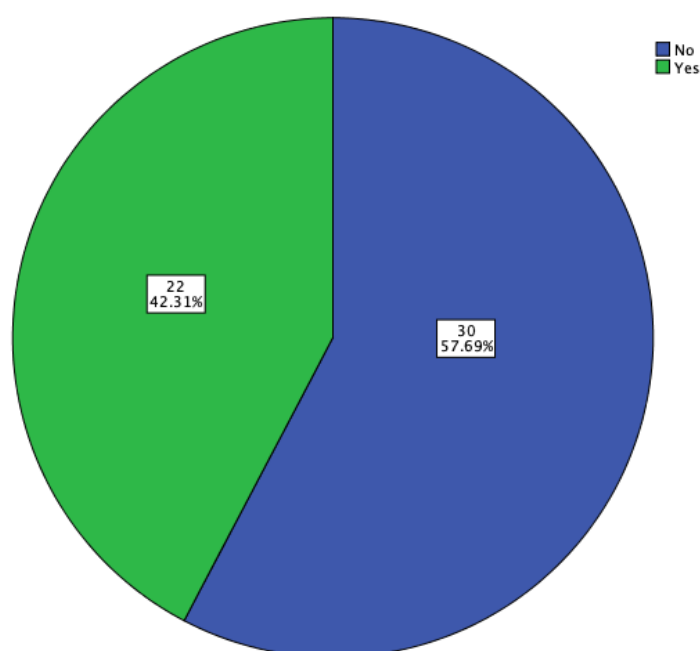


2.31 Familiarity with LGBTI discriminations in social sector

56% of respondents mentioned that they have heard of LGBTI being discriminated in social sector such as participating in social or charity activities.

(3) Case studies

Have you ever been discriminated in political or social sector?



2.31 Respondents' experience of discriminations in political/social sector

42% of the respondents mentioned that they had been discriminated in political/social sector. Respondents reasoned their sexual orientation and gender identity/expressions as a root of discriminations they faced.

"When we were discussing about giving Election and Voter education in our ward, one representative from a political party said, 'what does gay woman have to do with election? Get lost already and just remain gay at one corner.'"

(Respondent Code KL1002,

Kalay)

"I was volunteering to become a youth leader in our ward but I was denied by the Ward administrator because I was neither man or woman to him."

(Respondent Code MTL1002,

Sinpaungwel)

LGBTIs, especially transgender persons, are

often deemed as those whose gender expressions are contagious and can populate more LGBTI generations – and hence not a very good role model for the society. These prejudices prevent LGBTIs to serve within the community or become leaders of the community. LGBTIs are restricted and marginalized from contributing in the socio-political sectors.

"When they chose 10 housing administrator, I was not voted accusing 'Oh she is transgender, might as well hang around with her other trans friends and do nothing good' "

(Respondent Code MY2001,

Monywa)

"They do not let me participate in the social activities. I am always excluded and discriminated, basically because I dress up as a man despite being a woman."

***(Respondent Code MH1002,
Mahlaing)***

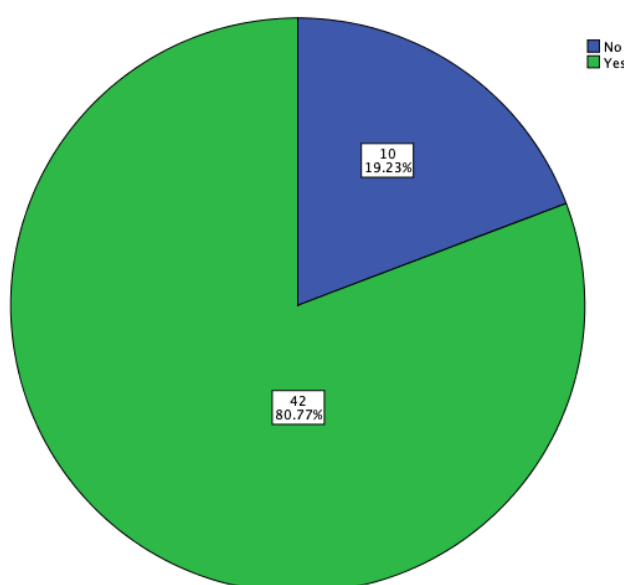
Moreover, the civic space for LGBTI is shrinking. Despite the existing laws not prescribing the legal registrations of LGBTI human rights organizations mandatory, they cannot engage at a national level advocacy unless they are officially registered. For those organizations who wish to register, they are required to obtain a recommendation letter from the relevant ministry working on LGBTI issues and currently in Myanmar, there had been no

known Ministry working on human rights and equalities for LGBTI communities. LGBTI organizations are also suppressed under complicated and prolonged administrative requirements imposed by the regional governments in implementing human rights related projects – such as obtaining permission to host or organize events, trainings or workshops.

(F) Human rights violation in Workplace and employment sector

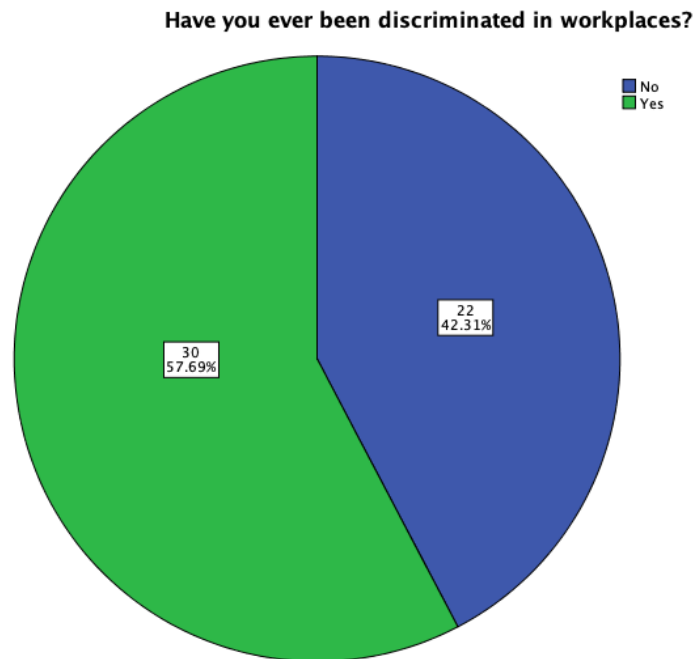
(1) Discriminations in Workplace and employment sector

Have you ever heard of LGBTI being discriminated in workplaces?



2.32 Familiarity with LGBTI discriminations in Workplace or employment sector

80% respondents mentioned that they have heard of LGBTIs within their environment being discriminated in Workplace or employment sector. In further questioning about their own experiences, about 58% of the respondents mentioned that they have been discriminated at their workplaces.



2.33 Respondents' Experience of discriminations in workplace or employment sector

(2) Case studies

The research team interviewed the respondents to collect detailed cases of discriminations that they faced in their workplaces. LGBTIs are being discriminated in workplaces on the grounds of their sexual orientations and gender identity/ gender expressions.

LGBTI are forced to wear gender-conforming uniforms only. They are not allowed to dress up as transgenders. Those who refuse to follow the rules are scolded, blamed, called into human resources, and are even fired at times.

"I work at construction site. I had to carry heavy stuffs and do male chores like all other men. But when I get paid, I paid less than them because I am a transgender woman."

(Respondent Code MY1002, Monywa)

Many LGBTIs are not being granted with equal rights or opportunities or payments like any other employees. LGBTI are verbally, physically and sexually assaulted by their supervisors and fellow colleagues. Respondents mentioned that their workplaces failed to protect their rights despite all the policies in place.

"I got a job at a goods store with the help of my relative. The shop owner only hired me because he couldn't say no to them and since I dress up as a woman, he would touch my bottoms and my boobs. I couldn't stand anymore so I reported the incident to the 10-housing administrator in the ward. He said, 'of cuz he would touch you, look at you dressing up as a woman and being a slut'."

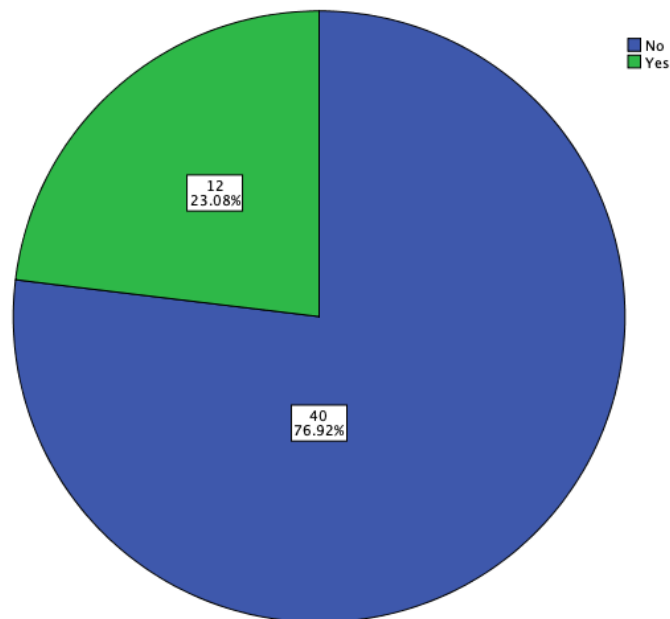
(Respondent Code MDY5001, Mandalay)

Respondent code MDY3001 shared his experience by stating – ***"When I was a hotel staff, my fellow colleagues, when they saw me talking to a male customer, would always tease me 'Hey, you gay boy, you like that man huh?' or 'Did you get laid with him?'... Things like that."***

In some situations, LGBTIs employees experience sexual exploitation, harassments and assaults in their workplace.

(3) Workplace Equality

Do you think that LGBTI are being granted with equal payment, opportunities and rights in their workplaces?



2.34 Respondents' opinion on workplace equality

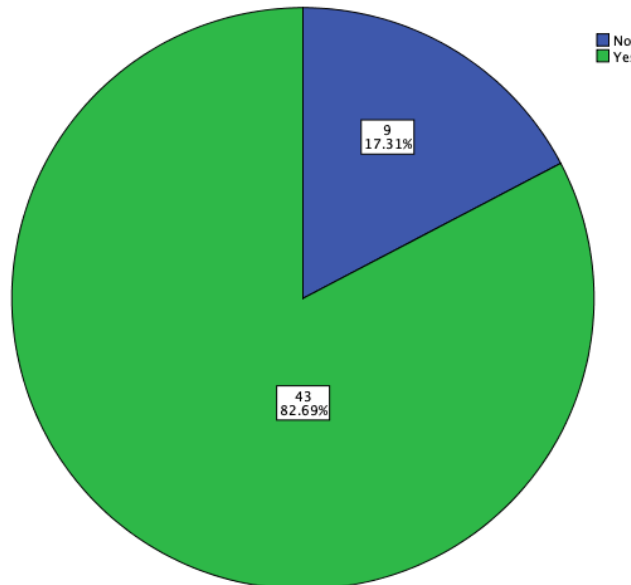
77% of the respondents said that as LGBTI persons, they are not being granted with equal payment, opportunities or rights in their workplaces.

(G) Human Rights violation in Public, private or government service providing facilities, public places and infrastructures

(1) Discriminations in public, private or government service providing facilities, public places and infrastructures

LGBTI face discriminations and violence in public, private or government service providing facilities such as ministry departments, government offices, General administration departments, hotels, banks, train stations, bus stations, parks, malls and restaurants etc. Respondents were asked if they had heard of LGBTI in their environment being discriminated in public, private or government service providing facilities and 83% answered yes.

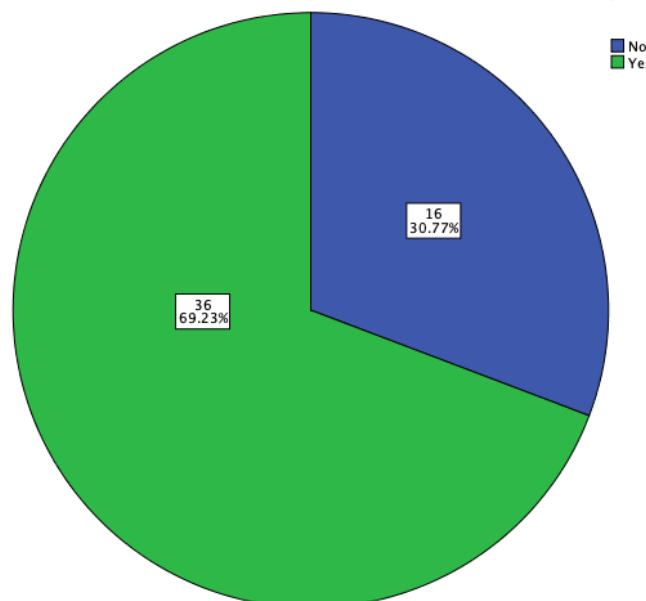
Have you ever heard of LGBTI being discriminated in public, private or government service providing facilities?



2.35 Familiarity with LGBTI discriminations in public, private or government Service providing facilities

In further questioning about their own experiences of discriminations, 69% of the respondents mentioned that they had been discriminated in public, private or government service providing facilities.

Have you ever been discriminated in public, private or government service providing facilities?



2.36 Respondents' experience of discriminations in public, private or government Service providing facilities

(2) Case studies

Many discriminations are found to be based on the grounds of respondents' sexual orientation and gender identity. LGBTIs are seen as "mentally disordered", "rude unfollowers of religious teachings", "spreader of sexually transmitted diseases" etc. Verbal abuses such as

mocking, teasing, cursing; physical violence and sexual harassments mainly constitute types of discriminations.

One of the main places of discriminations is the government departments such as Department of immigration, different level offices (regional or state, ward, village tract) of General Administration Departments, police stations etc in which the respondents obtain documents such as National registration cards, or permission or recommendation letters.

"I was renewing my NRC for 18 years of age completion. I was dressing up as a man and the staff at the Immigration Department would linger and say 'you still need this form or that form' and asked for 30,000 MMK to obtain the signature of the chief officer on my forms. I asked around, some say they had to give the same but some say they hadn't."

(Respondent Code MDY5003, Mandalay)

"Me and my other transmen friends rent a house and live together. One day, people from the Ward administration office and Fire Departments came to our house and force to evict us for no reasons."

(Respondent Code LSH1001, Lashio)

In some cases, LGBTIs become always the first to get suspected if crimes occur around the vicinity. They are often perceived as trouble-makers in the society for no apparent reasons, and can face exclusions and are prevented from participating in the social activities. LGBTI are also stereotyped in many different forms,

including being seen as spreaders of sexually transmitted diseases. They face discriminations in public places – from pedestrian lanes and parks to shopping malls etc. LGBTIs are being

"When I was at a restaurant, they gossiped 'there comes the AIDS carrier' then literally washed the place I sat down with water right in front of my face."

(Respondent Code TGI1002, Taunggyi)

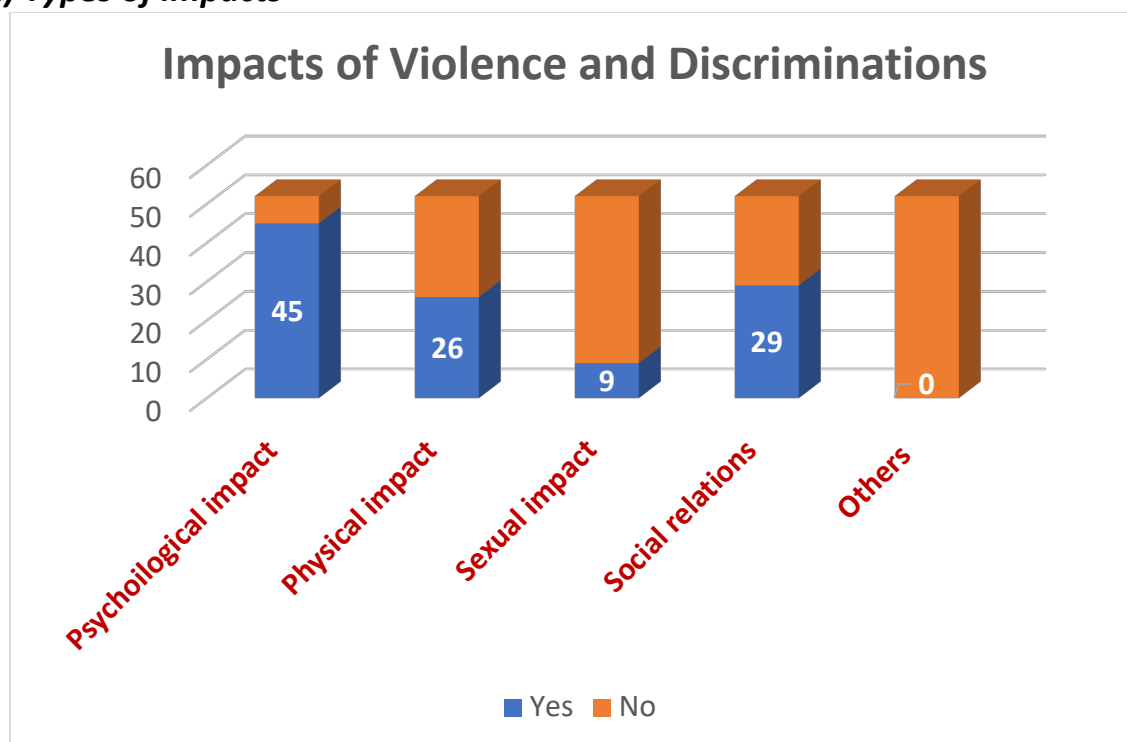
violated with their right to basic human dignity, right to privacy, right to freedom of expression or movement.

In some other cases, LGBTI, especially transgender persons, face awkwardness and inconvenience in service providing facilities that requires name-calling such as banks etc. They also do not have proper access to clean water and sanitation because most toilets are installed only for gender conforming people – male or female.

Section (D) – Access to psycho-social supports for discriminations and human rights violation

(A) Impacts of discriminations and repressions against LGBTI

(1) Types of impacts

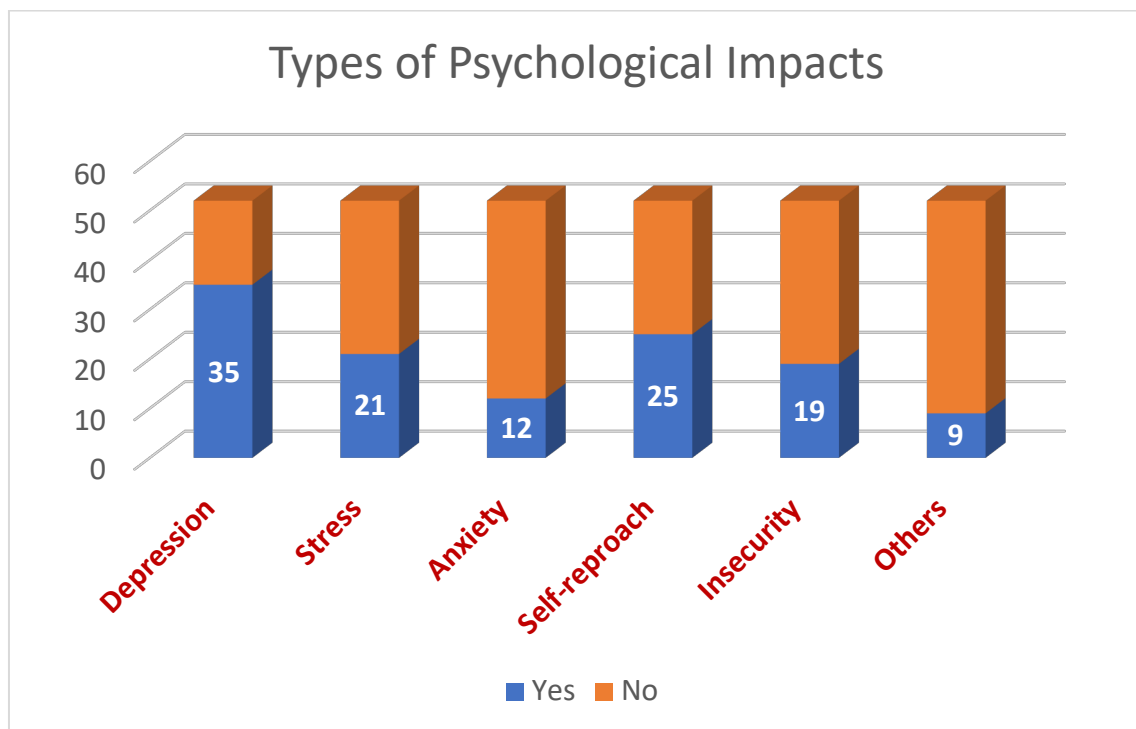


2.37 Types of impacts of violence and discriminations

Participants were asked to choose any answers that applies regarding the impacts of violence and discriminations they face. 87% of the respondents mentioned that they experience psychological impacts whereas 56% mentioned impacts on their social relations, 50% on their physical impacts and 17% sexual consequences.

(2) Psychological impacts

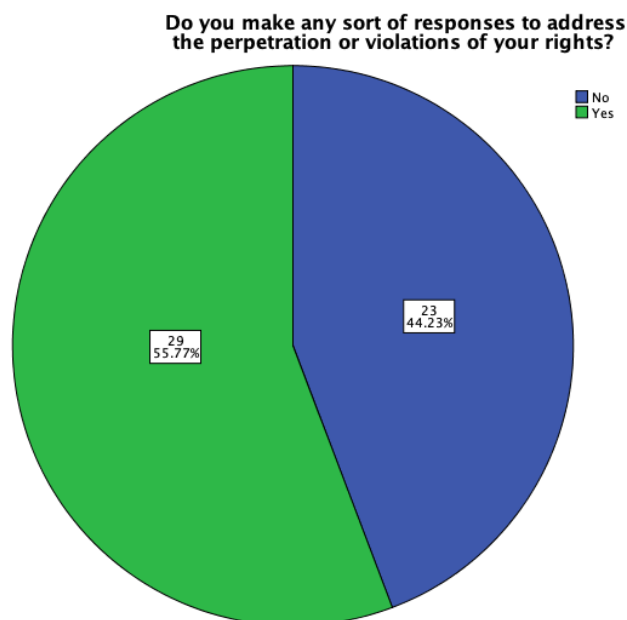
In further questioning to analyze the types of psychological impacts among 45 respondents who experienced psychological impacts, 77% mentioned depression, 55% self-reproach, 46% stress, 42% insecurity and the rest others. Other types of impacts include worries and angers etc.



2.38 Types of psychological impacts

Participants were then asked if they made any kind of response or reaction to address the violence and discrimination they face. 56% mentioned that they made some kind of response or reaction to address the violence and discrimination they face.

The respondents mentioned – **“opening up about their problem to someone they feel close to”, “focusing on doing their favorite hobby activities such as singing or reading or writing”, “consumption of alcohol and drugs to take their mind off of the incidents” and “committing self-harm in some cases”.**



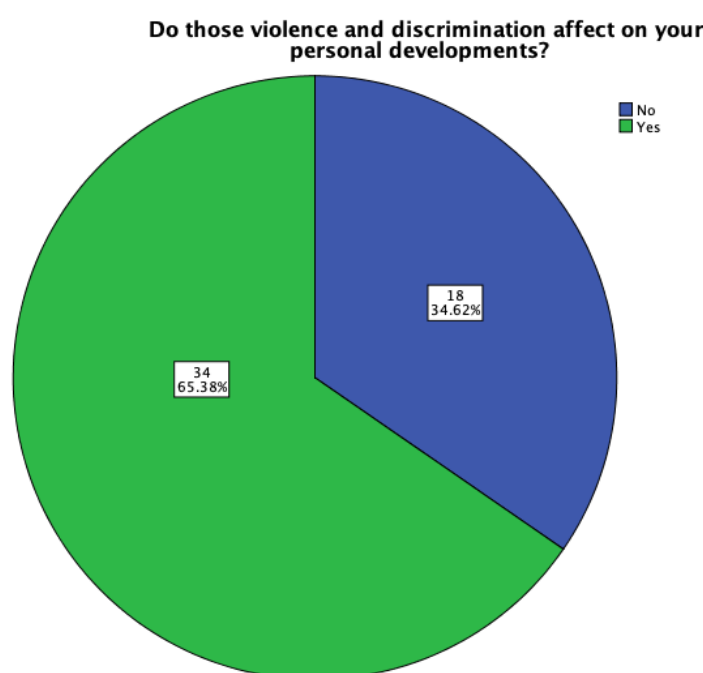
2.39 Responses or reactions against the violence and discriminations

(3) Impacts on Personal Development

On September 2015, the United Nations adopted Agenda 2030 for Sustainable Development Goals (SDG).⁴⁴ The SDGs was established on the main principle of “leaving no one behind.” There are altogether 17 goals in the SDG framework and goals such as Goal 3 – Good Health and well-being, Goal 4 – quality education, Goal 5 – Gender equality, Goal 6 – Clean water and sanitation, Goal 8 – Good employment and Economic growth, Goal 10 – reducing inequalities and Goal 11 – Peace, Justice and Strong institutions – are directly linked to the advancements and developments of LGBTI human beings.

The Republic of the Union of Myanmar has also adopted Myanmar Sustainable Development Goals (MSDG) Plan⁴⁵ to strategically implement the SDGs. There are 5 key pillars in the MSDG plan including “Strategy 4.1 – Improve equitable access to high quality life-long educational opportunity”, “Strategy 4.3 – Expand an adaptive and systems based social safety net and extend social protection services throughout the life cycle”, “Strategy 5.3 – Enable safe and equitable access to water and sanitation in ways that ensure environmental sustainability”. In realization of these goals, accessibility of LGBTI should also be reflected, however in practice, LGBTIs citizens are still being left out and excluded in the implementation and realization of these goals.

LGBTI face mounted violence and discriminations in the aforementioned sectors and these have detrimental impacts on their personal development and their right to developments.



2.40 Effect of violence and discrimination on respondents' personal developments

In this research, 65% of the respondents mentioned that violence and discriminations they face have detrimental impacts on their personal developments in their education, health, economy and social sectors etc.

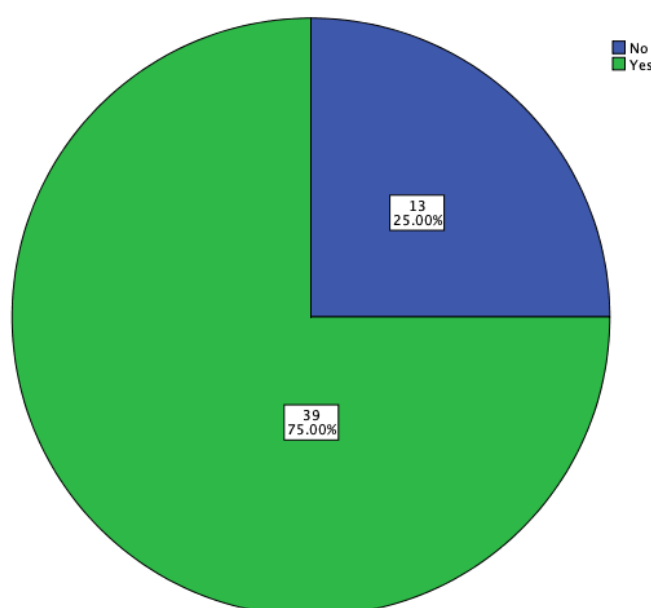
⁴⁴17 Goals for People, for Planet <https://www.un.org/sustainabledevelopment/development-agenda/>

⁴⁵Myanmar Sustainable Development Plan (2018-2020) <https://www.mopf.gov.mm/en/page/ministry/2175>

(B) Access to Psycho-social supports

(1) Discussing their problems with other people

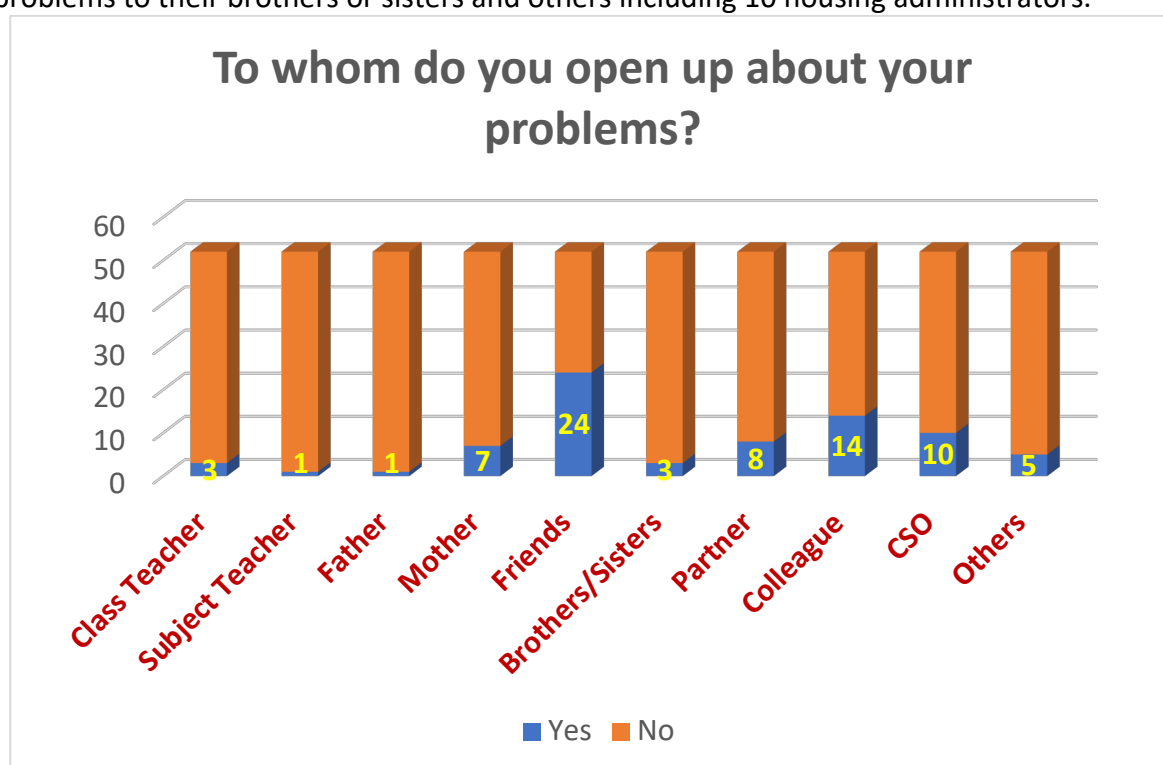
Do you open up about your problems to someone and discuss?



2.41 Respondents' ability to discuss their problems with other people

The majority of respondents, 75% mentioned that they discussed about their problems with other people, but only to those who they feel close to.

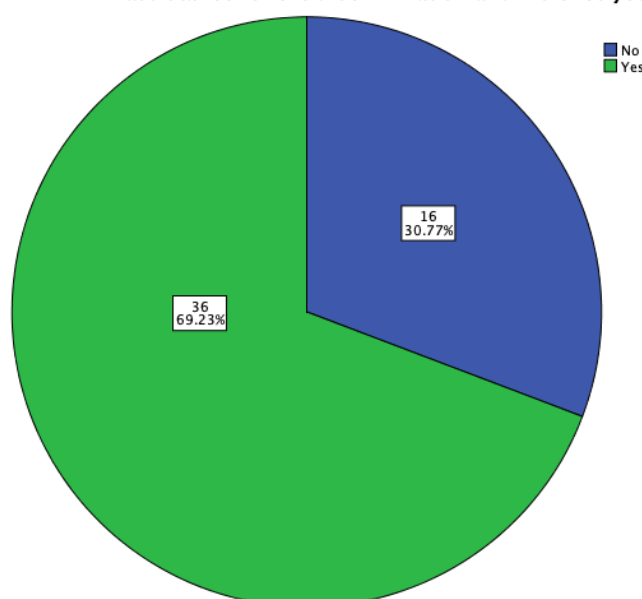
In further questioning about the persons they usually open up to, many respondents discuss about their problems with their friends mostly followed by their colleagues at second most; civil society organizations at third most; their partner at fourth most and their mothers at fifth most. Only a few other respondents mentioned that they opened up about their problems to their brothers or sisters and others including 10 housing administrators.



2.42 Persons to whom respondents open up about their problems

(2) Available assistance to address violence and discriminations in their environment

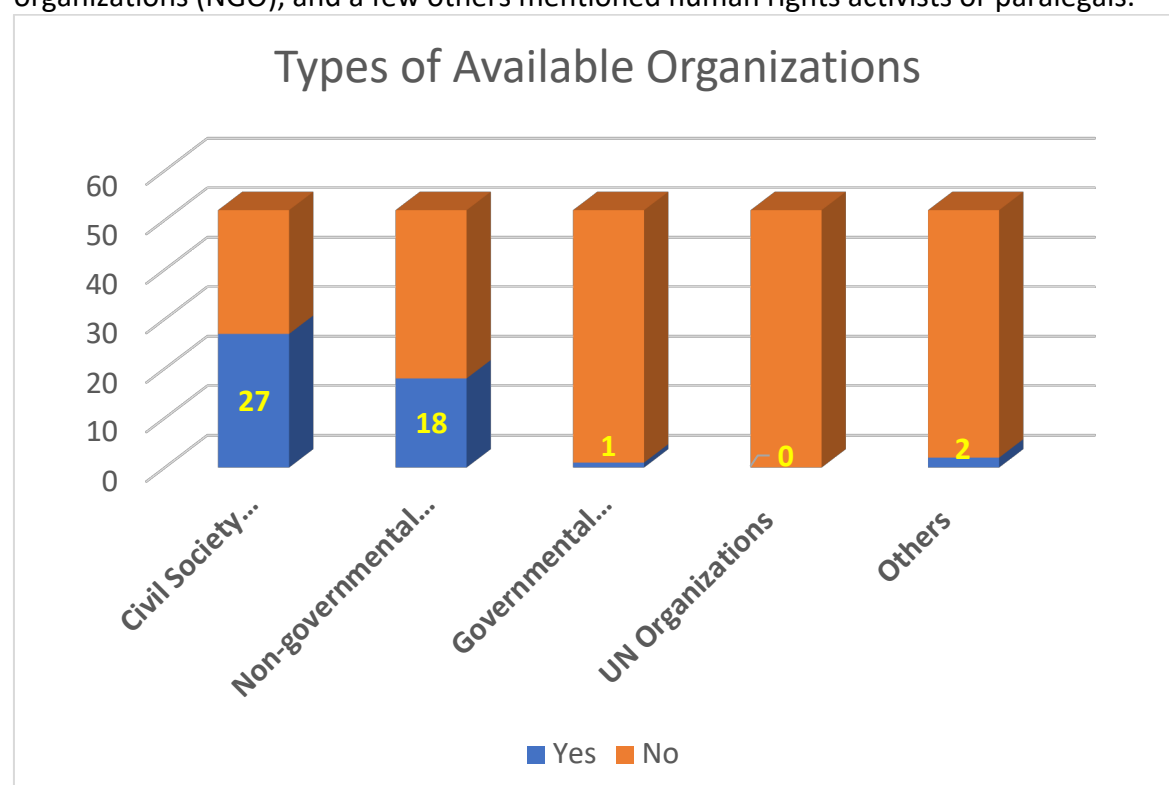
Are there any individuals or organizations around you to provide you assistance for the discrimination and violence you face?



2.43 Availability of individuals or organizations in the environment to address violence and discriminations that the respondents faced

The respondents were asked whether if they were any individual or organizations available in their environment that could provide assistance to resolve the violence and discriminations they faced. 69% mentioned that there are such types of individuals or organizations available in their environment.

In further questioning about the types of organizations available in their environment, 52% mentioned civil society organizations (CSOs), 35% mentioned non-governmental organizations (NGO), and a few others mentioned human rights activists or paralegals.



2.44 Types of available organizations

Chapter (3) – Conclusions and Recommendations

1. Conclusions

LGBTIs face discriminations and violence in different sectors such as – family, education, health care, religion or belief, social or political, workplace and employment, public, private or government service sector – on a daily basis because of their sexual orientation and gender identity/expressions. Such violence and discriminations are violation of their human rights and as a consequence, LGBTIs experience detrimental impacts on their physical, psychological and sexual well-being, as well as their social inclusion and personal developments.

Lack of proper knowledge and awareness on sexual orientation, gender identity and expressions (SOGIESC), with an assumption, stigma and prejudice that SOGIESC is a choice and can be cured – is the main fuel to the flames of such violence and discriminations.

Due to intersectional discriminations they face, LGBTI are being violated with rights prescribed in the Universal Declaration of Human Rights such as – “Right to Equality”, “Right to freedom from discrimination”, “Right to life, liberty, personal security”, “Freedom from torture and degrading treatment”, “Right to recognition as a person before the law”, “Right to equality before the law”, “Freedom from arbitrary arrest and exile”, “Freedom from interference with privacy, family, home and correspondence”, “right to free movement in and out of the country”, “Right to marriage and equality”, “right to social security”, “right to desirable work” and “right to education” etc.

Myanmar not only lacks any other legislations or legal frameworks to protect violation of such rights but also inhabits prevalence of repressive laws and legislations that discriminates LGBTIs make LGBTI deprived even of their fundamental rights guaranteed in the Constitution.

Myanmar has obligations to protect the rights of LGBTI individuals under international human rights laws, especially under the conventions it has already ratified such as ICESCR, CEDAW, CRC and CRPD. It should urgently and effectively implement the provisions set forth in the following international human rights laws to better the human rights situations of LGBTI citizens in the country.

2. Recommendations

(1) To the government of the Republic of the Union of Myanmar

A. Family sector

- To effectively raise awareness and knowledge of sexual orientation, gender identity/expression and sex characteristics (SOGIESC) for the parents, guardians and member of the family of LGBTI persons.
- To effectively raise awareness and knowledge of Child rights and women rights for the parents, guardians and member of the family of LGBTI persons.
- To effectively implement the Child Rights Law (2019) at both national and sub-national levels.
- To establish centers that provide quality psycho-social supports and are accessible by LGBTI persons.

B. Education sector

- To conduct knowledge and awareness-raising trainings on sexual orientation, gender identity/expression and sex characteristics (SOGIESC) for staffs and officers at different level of the Ministry of Education, including but not limited to the

Department of Basic Education, Department of Higher Education, Department of teacher training and Myanmar Research Department of Education.

- To integrate development of and compulsory system for learning of school curriculums on sexual and reproductive health education and lessons on sexual orientation, gender identity/expression and sex characteristics (SOGIESC) at appropriate levels in the on-going Myanmar education reforms.
- To effectively establish policies and remedies to address bullying against LGBTI students at schools and other learning places.
- To establish free and quality psycho-social supports at schools that are accessible by LGBTI students and other students belonging to the vulnerable groups to address the incidents around physical, psychological and sexual violence occurred on and off of the learning grounds.
- To practically and effectively implement the Myanmar National Education Strategic Plan that is inclusive for LGBTI students.

C. Health Care sector

- To ensure that the Ministry of Health and Sports consider inclusivity for LGBTI citizens in the implementation of Universal Health Coverage (UHC) at different levels.
- To effectively develop and implement knowledge building and awareness raising programs on sexual orientation, gender identity/expression and sex characteristics (SOGIESC) for staffs in different levels of the Ministry of Health and Sports, including but not limited to General Hospitals, public hospitals, clinics, pharmacies and other health care service providing facilities.

D. Religion or Belief sector

- To ensure that the Ministry of Religious Affairs and Culture immediately identify and take proper actions against the religious actors who commit hate speech and stimulate public hatred and misunderstanding against LGBTI citizens.

E. Political and Social sector

- For Union Election Commission (UEC) to conduct knowledge building and awareness raising programs on sexual orientation, gender identity/expression and sex characteristics (SOGIESC) for staffs at different Election sub-commissions at Regional or state, District, Township, Ward or Village tract levels.
- To develop and integrate plans to ensure LGBTI-inclusiveness in the UEC's future strategic plans for free, fair and equal election.
- To effectively allocate necessary resources for and implement National Youth Policy at different national and sub-national levels to ensure that the roles of LGBTI are not restricted but promoted in the social, economic, civil and political sectors.

F. Economy and Employment sector

- To ensure establishment of effective, systematic and responsive mechanisms at employment institutions for grievances and remedies in regards to the workplace inequalities and discriminations.

G. Public, Private or government service sector

- To raise awareness and knowledge of sexual orientation, gender identity/expressions and sex characteristics among different levels of staffs and officers in government ministries and departments.
- To establish effective and responsive mechanisms for grievances and remedies are in place for discriminations in private, public and government service and good providing facilities, places and infrastructures.

H. Legal and Justice Sector

- To repeal or amend Section 377 of the Penal Code, the provision for ‘unnatural offences’ so that only non-consensual sexual relationships are criminalized.

Section 377 must be repealed or at the bare minimum amended to meet Myanmar’s international human rights obligations because it violates the non-discrimination principle, the right to equality before the law and equal protection of the law without discrimination, as well as the rights to liberty and security of person and to private life, among other rights, and contributes to the stigmatization and marginalization of LGBTI people. This lends false legitimacy to the anti-LGBTI prejudice common throughout Myanmar’s criminal justice system.

- To reform vague and discriminatory laws including but not limited to Section 35 of the Police Act 1945 and Section 30 of the Rangoon Police Act 1899.

The ruling government should review and repeal or reform vaguely provisioned laws that invite discriminatory applications, especially where such laws enable arrests to be made solely based on prejudice, discriminations, etc. on SOGIESC grounds. Specifically, Section 35 of the Police Act 1945, Section 30 of the Rangoon Police Act 1899 (the so-called Shadow laws and Darkness laws) are legal provisions that should be amended or repealed as a matter of priority.

- To ensure that law enforcement officials and individuals working in justice sector are trained and sensitized with sexual orientation, gender identity/expressions and sex characteristics.
- To establish legal gender recognition for transgender persons
- To amend the provision of the Constitution Article 348 by including “sexual orientation, gender identity or expression” to ensure non-discriminations against LGBTI citizens.
- To consult with the civil society actors and to ensure that the policy-makers and legislators consider the rights of the people with different sexual orientation, gender identity and expressions and sex characteristics in developing and enacting all forms of domestic legislations.
- To draft, develop and enact the anti-discrimination legislations to protect LGBTI citizens.

I. Ratification of International Human Rights treaties

- To ratify International Covenant on Civil and Political Rights (ICCPR) and other international human rights conventions and effectively implement at the national levels.

(2) To Myanmar National Human Rights Commission

- To ensure its policy, public statements, reports and investigations actively address violence and discrimination based on sexual orientation, gender identity/expression and sex characteristics.
- To ensure transparent, timely and expedient availability of reports that are accessible by the public.
- To create, integrate and implement a plan of action against discrimination and violence based on sexual orientation, gender identity/expression and sex characteristics.
- To enhance and increase the public accessibility of MNHRC's complaint mechanisms at all levels.

(3) To civil society organizations and non-governmental organizations

- To build knowledges and raise awareness about sexual orientation, gender identity/expressions and sex characteristics among both LGBTI and Non-LGBTI communities.
- To collaborate and coordinate regionally, nationally and internationally in lobbying and advocacy activities regarding LGBTI rights and issues around sexual orientation, gender identity/expressions and sex characteristics in Myanmar.
- To consider and include SOGIE-sensitive workplans at all stages, from designing, practical implementation to monitoring and evaluation of their project activities.

Appendices

Appendix A – Survey Questionnaires

Code No. _____

VOICES UNHEARD : Analysis of human rights violations committed against LGBTIQAs citizens in Upper Myanmar region

All of your answers will be kept confidential, and data will be used for research purposes only. Your participation and time is much appreciated.

Instructions : Please check (✓) the answer box where appropriate.

Township : _____
Ward : _____
Date of survey conducted : ____ / ____ / ____

Part A : General Characteristics

1. Age (completed year)

☐ 5 – 18 years ☐ 19 – 25 years ☐ 26 – 40 years ☐ 41 years and above

2. Sex at birth

☐ Male ☐ Female ☐ Intersex ☐ Other

3. Gender identity

☐ Man ☐ Woman ☐ Gender queer ☐ Questioning
☐ Other (Please specify _____)

4. Sexual orientation

☐ Heterosexual ☐ Homosexual ☐ Bisexual ☐ Polysexual ☐ Pansexual
☐ Asexual ☐ Questioning ☐ Do not want to mention
☐ Other (Please specify _____)

5. Education level

☐ Illiterate(No school education) ☐ Primary ☐ Secondary ☐ High school
☐ University ☐ Monastic Education ☐ Other (Please specify _____)

6. Occupation

☐ Unemployed ☐ Daily wager ☐ Shopkeeper ☐ government staff
☐ Vendor ☐ Spiritual dancer ☐ Make-up artist ☐ Floral artist
☐ Student ☐ Social worker ☐ Other (Please specify _____)

7. Marital status

	<i>If yes, name any rights prescribed in it. (30 articles to be attached to this questionnaire and the survey interviewer is to mark in circles the articles that the interviewee mention.)</i>		
14.	Have you heard of Yogyakarta Principles? <i>If yes, name any rights prescribed in it. (30 articles to be attached to this questionnaire and the survey interviewer is to mark in circles the articles that the interviewee mention.)</i>	☐	☐
15.	Do you know any other international human rights mechanisms, conventions/treaties related to the protection of LGBTI rights? <i>If yes, briefly list them.</i>	☐	☐
16.	Do you know what Sexual orientation/Gender Identity/Expressions and Sex characteristics (SOGIESC) is?	☐	☐
17.	Do you think SOGIESC is a choice or something you are born with? ☐A choice ☐Born-with ☐Do not know		
18.	Do you think that LGBTIQ rights is human rights?	☐	☐
19.	Do you think that it is easy to access justice for LGBTI in Myanmar? ☐Yes. ☐No ☐Not sure		

Part C : Human Rights Violation Encounters and Experiences

Please check (✓) properly under either YES or NO to the questions below. Some of the questions with YES answers require further information.

Please read the questions carefully and provide brief descriptions for each question as instructed.

(A) Discriminations at homes and in families

No.	Questions	YES	NO
20.	Have you ever been discriminated by your families or by those you are living together with based on your identity (sexual and expression preferences)? (If you answer NO, please skip question 21 and 22).	☐	☐
21.	What types of discriminations or violence was/were involved? (Tick more than one answers where appropriate.)		

	☐ Physical violence ☐ Verbal abuse ☐ Mental/psychological violence ☐ Sexual harassment/violence ☐ Other (Please specify below).
22.	Briefly describe one incident of such discrimination that you cannot forget.

(B) Human rights violation in Education Sector

No.	Questions	YES	NO
23.	Have you ever heard of LGBTIQ being discriminated at schools or facilities in which you receive educations? (If you answer NO, please skip questions 24 and 25.)	☐	☐
24.	Have you ever been discriminated in schools or facilities in which you receive educations? <i>If yes, briefly describe 1 incident about when and how it happened?</i>	☐	☐
25.	Do you think that Myanmar's current Education system is inclusive for people with disabilities, LGBTIs or indigenous people? Why do you think that is?	☐	☐

(C) Human rights violation in Health care sector

No.	Questions	YES	NO
26.	Have you heard of LGBTIQ being discriminated in Health care service providing facilities such as hospitals/clinics etc.? (If you answer NO, please skip questions 24 and 25.)	☐	☐

27.	Have you ever been discriminated in Health care service providing facilities such as hospitals/clinics etc.? <i>If yes, briefly describe 1 incident about when and how it happened?</i>	☐	☐
28.	What difficulties do you think LGBTI have in order to access health care services?		

(D) Human rights violation in Religion or belief sector

No.	Questions	YES	NO
29.	Have you ever heard of LGBTIs being discriminated by the religious actors or organizations/associations etc.?	☐	☐
30.	Have you ever been discriminated by the religious actors or organizations/associations etc.? <i>If yes, briefly describe 1 incident about when and how it happened?</i>		
31	Do you think it is easy for LGBTI to access religious buildings, infrastructures or occupy religious spaces? Please give reasons for your answer.	☐	☐

(E) Human rights violation in Political/social sector

No.	Questions	YES	NO
32.	Have you heard of LGBTIQ being discriminated in political sector such as association of political parties, candidature, election voting or observations?	☐	☐

33.	Have you ever heard of LGBTI being discriminated in social sector such as charities activities, community movements etc.?	☐	☐
34.	Have you ever been discriminated the above political or social sectors? If yes, briefly describe 1 incident about when and how it happened?	☐	☐

(F) Human rights violation in Economy, work-place and employment sector

No.	Questions	YES	NO
35.	Have you heard of any cases where LGBTIQ are discriminated in work-place and employment sector?	☐	☐
36.	Have you ever been discriminated in work-place and employment sector? <i>If yes, briefly describe 1 incident about when and how it happened?</i>	☐	☐
37.	Do you think that LGBTIs are being granted with equal payments, opportunities and rights in their workplaces? Please give reasons for your answer.	☐	☐

(G) Human rights violation in Private or Public services and functions; Public spaces, facilities and infrastructures

No.	Questions	YES	NO
38.	Have you heard of any cases where LGBTIQ are discriminated in private or public services and functions including in public spaces, facilities and infrastructures such as hotels, banks, the ministries, government	☐	☐

	departments, train stations, bus stations, hospitals, clinics, public recreation parks and places, malls, restaurants and other public or private buildings and infrastructures?		
39.	Have you ever been discriminated in in private or public services and functions including in public spaces, facilities and infrastructures such as hotels, banks, the ministries, government departments, train stations, bus stations, hospitals, clinics, public recreation parks and places, malls, restaurants and other public or private buildings and infrastructures? <i>If yes, briefly describe 1 incident about where, when and how it happened?</i>	☐	☐

Part D : LGBTI's Access to psycho-social supports

Please check (✓) properly under either YES or NO to the questions below. Some of the questions with YES answers require further information.

Please read the questions carefully and provide brief descriptions for each question as instructed.

(A) Impacts of discrimination and violence on LGBTIs

No.	Questions	YES	NO
40.	What kind of the following impacts do you experience due to the discriminations and violence you face? (If yes, please tick all that applies from under below.) ☐ psychological harm (if you choose this answer, please also go to question 41 to choose further answers.) ☐ physical harm ☐ sexual harm ☐ social and public relations ☐ others (please specify below)	☐	☐

	_____ Briefly describe 1 example for each of your answer.		
41.	What type of psychological impacts do you experience due to discrimination and violence? ☐ Depression ☐ Stress ☐ Anxiety ☐ Self-reproach ☐ Insecurity ☐ others (please specify below) _____ Briefly describe 1 example for each of your answer.	☐	☐
42.	When you face violence or discrimination, do you make any type of response to react either to the incident or the perpetrators? What type of response(s) is/are those?	☐	☐
43.	Do those violence and discrimination have detrimental impact on your personal developments? If yes, please give one example.	☐	☐
44.	Do you open up or talk about your problems related to violence or discrimination with someone? If yes, which of the following persons do you often talk to.	☐	☐

	☐ class teacher. ☐ subject teacher ☐ father. ☐ mother. ☐ brothers/sisters ☐ friend. ☐ partner/lover. ☐ colleague ☐ CSO/NGOs ☐ others (please specify below) 		
45.	Do you have any individuals or organizations that can provide assistance to address violence and discrimination you face in your environment? If yes, which of the following are they? ☐ civil society organizations ☐ non-governmental organizations ☐ government departments ☐ united nations' organizations ☐ others (please specify below) 	☐	☐
46.	What actions do you recommend to improve the human rights situations for LGBTI in Myanmar?		

Annex (A) – Universal Declaration of Human Rights

Article 1	Right to Equality
Article 2	Freedom from Discrimination
Article 3	Right to Life, Liberty, Personal Security
Article 4	Freedom from Slavery
Article 5	Freedom from Torture and Degrading Treatment
Article 6	Right to Recognition as a Person before the Law
Article 7	Right to Equality before the Law
Article 8	Right to Remedy by Competent Tribunal
Article 9	Freedom from Arbitrary Arrest and Exile
Article 10	Right to Fair Public Hearing
Article 11	Right to be Considered Innocent until Proven Guilty
Article 12	Freedom from Interference with Privacy, Family, Home and Correspondence
Article 13	Right to Free Movement in and out of the Country

Article 14	Right to Asylum in other Countries from Persecution
Article 15	Right to a Nationality and the Freedom to Change It
Article 16	Right to Marriage and Family
Article 17	Right to Own Property
Article 18	Freedom of Belief and Religion
Article 19	Freedom of Opinion and Information
Article 20	Right of Peaceful Assembly and Association
Article 21	Right to Participate in Government and in Free Elections
Article 22	Right to Social Security
Article 23	Right to Desirable Work and to Join Trade Unions
Article 24	Right to Rest and Leisure
Article 25	Right to Adequate Living Standard
Article 26	Right to Education
Article 27	Right to Participate in the Cultural Life of Community
Article 28	Right to a Social Order that Articulates this Document
Article 29	Community Duties Essential to Free and Full Development
Article 30	Freedom from State or Personal Interference in the above Rights

Annex (B) – Yogyakarta Principles

- P1 – Right to Universal Enjoyment of Human Rights
- P2 – Rights to Equality and Non-discrimination
- P3 – Right to recognition before the law
- P4 – Right to Life
- P5 – Right to security of the Person
- P6 – Right to Privacy
- P7 – Right to Freedom from Arbitrary Deprivation of Liberty
- P8 – Right to Fair Trial
- P9 – Right to Treatment with humanity while in detention
- P10 – Right to freedom from torture and cruel, inhumane or degrading treatment or punishment
- P11 – Right to protection from all forms of exploitation, sale and trafficking of human beings
- P12 – Right to work
- P13 – Right to social security and to other social protection measures
- P14 – Right to adequate standard of living
- P15 – Right to adequate housing
- P16 – Right to education
- P17 – Right to highest attainable standard of health
- P18 – Protection from medical abuses
- P19 – Right to freedom of opinion and expression
- P20 – Right to freedom of peaceful assembly and association
- P21 – Right to freedom of thought, conscience and religion
- P22 – Right to freedom of movement
- P23 – Right to seek asylum
- P24 – Right to found a family
- P25 – Right to participate in public life
- P26 – Right to participate in cultural life
- P27 – Right to promote human rights
- P28 – Right to effective remedies and redress
- P29 – Accountability

