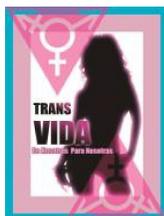




# Human Rights Violations of Trans Women in Costa Rica, El Salvador, Guatemala, Honduras and Panama



Survey of complaints received by REDLACTRANS together with local organizations  
TRANSVIDA, ASPIDH, OTRANS-RN, Colectivo Unidad Color Rosa and APPT between  
March and October 2015



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## 1. INTRODUCTION

1. As highlighted by the Inter-American Commission on Human Rights (hereinafter, “IACHR”) in a recent report on violence against lesbian, gay, bisexual, trans and intersex persons, (hereinafter, “LGBTI”), having disaggregated data and statistics on violence against LGBTI persons constitutes “an essential tool” to assess the effectiveness of measures to prevent, punish and eradicate this kind of violence, as well as formulating any necessary changes in the policies implemented by the State.<sup>1</sup>
2. In the field of the political bodies of the Organization of American States (hereinafter, “OAS”), since 2013, the OAS General Assembly has included in its resolutions a call to the States to produce statistical information about violence on the basis of sexual orientation and gender identity with a view to fostering public policies that protect the human rights of LGBTI persons.<sup>2</sup> This commitment undertaken by the States at the International offices has been accompanied by a similar recommendation by the IACHR, who has urged the OAS Member States to “take measures and to allocate adequate resources to collect and analyze statistical information systematically regarding the incidence and nature of the violence and the discrimination against LGBTI persons or those perceived as such.”<sup>3</sup>
3. However, in recent years, the human rights protection bodies in the framework of the universal<sup>4</sup> and Inter-American<sup>5</sup> systems have expressed their concern for the lack of public policies with an aim to collecting and systematizing this kind of information. The lack of mechanisms for the collection at a national or local level affects particularly trans persons, who are in a serious situation of vulnerability. The absence of reliable information about the levels and forms of violence against our community prevents from knowing exactly its true dimension and scope. In turn, it hinders the development of effective policies that can give a proper answer to the specific needs of the trans community in each State and above all, devise strategies that may prevent violence against trans persons.
4. As a result of this alarming situation, the Latin-American and Caribbean Network of Trans Persons (Red Latinoamericana y del Caribe de personas Trans) (hereinafter, “REDLACTRANS”)

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<sup>1</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 521.1.

<sup>2</sup> OAS General Assembly, Resolution 2863 (XLIV-O/14): “Human Rights, Sexual Orientation, and Gender Identity and Expression”, approved on 5 June 2014, resolution item no. 4; OAS General Assembly, Resolution 2807 (XLIII-O/13): “Human Rights, Sexual Orientation, and Gender Identity and Expression”, adopted on 6 June 2013, resolution item no. 4.

<sup>3</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 521.1.

<sup>4</sup> United Nations High Commissioner for Human Rights, Discriminatory Laws and Practices and Acts of Violence against Individuals based on their Sexual Orientation and Gender Identity, A/HRC/19/41, 17 November 2011, paras. 23, 84(a); United Nations High Commissioner for Human Rights, Report: Discrimination and violence against individuals based on their sexual orientation and gender identity, A/HRC/29/23, 4 May 2015, paras. 27; 78(c).

<sup>5</sup> Inter-American Commission on Human Rights (IACHR), Press Release 153/14: “IACHR Expresses Concern over Pervasiveness of Violence against LGBTI Persons and Lack of Data Collection by OAS Member States”, 17 December 2014. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/153.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/153.asp)

decided to implement a project of collection and systematization of data about complaints of human rights abuses and violations against trans persons in five member states of the network: Costa Rica, El Salvador, Honduras, Guatemala and Panama.

5. The project, which had the support and financing of Heartland Alliance, has the main objective of generating documented evidence of the violence suffered by trans women in the region. These efforts to register and document have the purpose of making visible these violations, the majority of which usually go unpunished. In addition, it is expected that this information turns out to be of significance to sustain the initiatives and the activities of political incidence that REDLACTRANS carries out with the purpose of obtaining the enactment of laws and the implementation of public policies that recognize and ensure the rights of the trans community in the region.
6. It must be particularly taken into account that the final product of this project offers a sample that attempts to show the human rights situation that the trans community lives from the collected information and does not intend to be comprehensive nor include all the situations of rights abuse or violation that may have taken place in the duration of this project. In this regard, REDLACTRANS and the organizations that belong to the network acknowledge and consider important the need to generate more and better examples of collection and systematization of data about the situation of said rights. Above all, it is necessary to clarify that these efforts made by REDLACTRANS and all the organizations of the network do not intend to be a substitute of or to relieve the State of its obligation to collect and systematize information about the violence against trans persons. Such obligation persists beyond the efforts responding to the demands of the moment that may be advanced by the civil society. Undoubtedly, the fact that the States of the region undertake this obligation seriously and committedly is an essential part of the claims to a regional level of REDLACTRANS.

## A. Methodology

7. In order to have a verifiable database of human rights violations motivated by gender identity or expression of the victims, REDLACTRANS worked together with different organizations that are part of the network to design the mechanisms of data registration. Initially, a “record file of Human Rights abuses/violations”, was designed and then used in a unified manner as a unit of documentation in all the countries where the project was implemented. Likewise, with the object of allowing the registration under identical parameters and conditions, a training workshop was held for those who would carry out the documentation and systematization of the cases. This workshop was held in Panama, 10 – 13 March, 2015.
8. Once the collection mechanisms and instruments have been agreed, the Regional Secretariat of the network and the Nationally Based Trans Organizations (hereinafter, “OTBN”) of the countries that took part in this project worked together through an interconnected and flexible structure, carrying out an interactive communicational model that allowed to increase strengths. Indeed, the tasks of documentation and systematization started in March 2015 and to

this day, we have collected more than one hundred cases of human rights violations of trans persons, such as murders, beatings or physical aggressions, intimidations and threats and discrimination in the access to health services, education and work.

9. In Costa Rica, the collection of data was carried out by the local civil organization TRANSVIDA. TRANSVIDA is an organization “of trans women for trans women.” It is located in the city of San Jose and it is the first civil society organization that advocates for the rights of the trans population in Costa Rica for six years. Its mission is to fight against gender violence from actions of political incidence from a human rights perspective to ensure the trans population a better quality of life.<sup>6</sup>
10. In El Salvador, the collection of information was carried out by REDLACTRANS together with the local civil organization Asociación Solidaria para Impulsar el Desarrollo Humano - Arcoíris Trans (ASPIDH). ASPIDH is a non-governmental association that works for the promotion, advocacy, demand and respect of the human rights of the local Trans population.<sup>7</sup>
11. In the specific case of Guatemala, the task of collection was carried out by the Trans Organization Reinas de la Noche (OTRANS-RN). OTRANS-RN is a non-governmental association acknowledged by the State of Guatemala that has the objective of promoting and developing the knowledge about Trans persons, their identity, their acceptance as dignified citizens in society therefore contributing to their social, economic and cultural development, the advocacy of human rights with a privileged focus on sexual and reproductive rights of trans persons who live in this country in Central America. It has developed projects for the strengthening of the trans community in health and social development issues at local, national and Central American levels for more than eleven years.<sup>8</sup>
12. The information about Honduras was collected by the organization Colectivo Unidad Color Rosa (CUCR), which works for the human rights of the transsexual, transvestites and transgender population and with the population who lives with HIV/AIDS.<sup>9</sup>
13. In Panama, the collection of data was carried out by the local civil organization Panamanian Association of Trans Persons (Asociación Panameña de Personas Trans) (APPT).

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<sup>6</sup> For further information, see: <https://www.facebook.com/transvidacr/>

<sup>7</sup> For further information, see: <https://www.facebook.com/Asociaci%C3%B3n-Aspidh-Arcoiris-351753211595946/?fref=nf>.

<sup>8</sup> For further information, see: <http://reinasdelanoche.org.gt/web/>

<sup>9</sup> For further information, see: <https://www.facebook.com/Colectivo-Unidad-Color-Rosa-695817700440206/>

## 2. SITUATION IN COSTA RICA

### A. The right to equality and non-discrimination

14. The Political Constitution of Costa Rica sets forth in article 33 that “everyone is equal before the law and no discrimination against human dignity shall be exercised.”<sup>10</sup> However, this disposition enshrines said right in a generic way and does not state suspicious categories nor prohibited grounds for discrimination.
15. While Costa Rica has ratified different human rights treaties at the international level, from which the legal protection to trans persons can be derived<sup>11</sup>, it is regrettable that Costa Rica has not signed nor ratified yet the Inter-American Convention against all Forms of Discrimination and Intolerance, which is open to signature and ratification by all Member States of the Organization of American States (hereinafter, “OAS”) which expressly includes “gender identity” and “gender expression” as prohibited grounds for discrimination.<sup>12</sup>
16. Costa Rica does not possess either any general law that expressly prohibits discrimination based on gender identity. In fact, the disposition that is considered as the only one that expressly prohibits discrimination against LGBT persons is section 48 of Law 7771 (General Law about HIV/AIDS),<sup>13</sup> which only incorporates expressly the prohibition of discrimination based on “sexual (...) option” [sic], without including gender identity.<sup>14</sup> Likewise, section 123bis of the Penal Code criminalizes torture, expressly stating the “sexual (...) option” [sic] of the victim without expressly mentioning gender identity either.<sup>15</sup> There are no laws either that provide for hate crimes or aggravating circumstances based on gender identity of the victims.
17. It must be particularly taken into account that the IACHR has emphasized that the States “must expressly include ‘gender identity’ as grounds for protection in legislation and in public

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<sup>10</sup> Political Constitution of Costa Rica, Art. 33 (amended text by Law No. 7880 27 May 1999). Available at: [http://www.asamblea.go.cr/Centro\\_de\\_Informacion/biblioteca/Paginas/Constituci%C3%B3n%20Pol%C3%ADtica%20de%20Costa%20Rica.aspx](http://www.asamblea.go.cr/Centro_de_Informacion/biblioteca/Paginas/Constituci%C3%B3n%20Pol%C3%ADtica%20de%20Costa%20Rica.aspx).

<sup>11</sup> As an example, it is worth mentioning the American Convention on Human Rights, the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights "Protocol of San Salvador", the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, among others.

<sup>12</sup> See, Inter-American Convention against all Forms of Discrimination and Intolerance, adopted on 5 June 2013, article 1 [at the time of writing this report this convention has not come into force yet].

<sup>13</sup> General Law about HIV/AIDS (Ley General sobre VIH-SIDA), Law 7771. Available at: [http://www.asamblea.go.cr/sil\\_access/ver\\_ley.aspx?Numero\\_Ley=7771](http://www.asamblea.go.cr/sil_access/ver_ley.aspx?Numero_Ley=7771)

<sup>14</sup> In fact, section 48 of Law 7771 sets forth: “The person who implements, orders or performs discriminatory measures based on race, nationality, gender, age, political, religious or sexual option, social position, economic situation, civil status or by any health ailment or disease, shall be punished by a fine [sic] from twenty to sixty days. The judge may impose, in addition, the relevant penalty of disqualification, from fifteen to sixty days.”

<sup>15</sup> Law 8189 from 18 December 2001, Addition to section 123bis to the Penal Code, Law No. 4573. Available at: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=47750&nValor3=50720&strTipM=TC](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=47750&nValor3=50720&strTipM=TC).

policies.”<sup>16</sup> In this regard, the Commission has given consideration to the arguments of some of the States in the sense that the protection to trans persons may derive from the terms “sex” or “gender” included in the text of some legal regulations. Even so, the IACHR has expressed that “while a progressive interpretation by analogy and the use of open clauses may be useful tools for the interpretation of laws and regulations, the IACHR recommends the term ‘gender identity’ be expressly included for greater legal certainty and visibility.”<sup>17</sup>

18. In 2014, Costa Rica accepted, in the framework of the Universal Periodic Review, two recommendations made by Argentina and Slovenia respectively, undertaking to “continue the measures to combat discrimination against LGBTI persons”<sup>18</sup> and to conduct “public awareness policies and programs, in cooperation with civil society, to change cultural paradigms and attitudes in order to encourage and promote respect for LGBTI persons and fight against prejudice and discrimination against LGBTI persons.”<sup>19</sup> REDLACTRANS congratulates Costa Rica for undertaking voluntarily this commitment before the international community and urges the State once again to double its efforts at the domestic level for the full implementation of said commitments. Even though in 2012 a decree issued by the Executive Branch declared 17 May as the “National Day against homophobia, lesbophobia and transphobia” and public institutions were ordered to “facilitate, promote and support actions aimed at the eradication of homophobia, lesbophobia and transphobia,”<sup>20</sup> this duty –formulated in a generic way and without further detail- has not been subject to specific regulations.<sup>21</sup>

19. In addition, in the framework of the Universal Periodic Review, Costa Rica partially accepted a recommendation made by Uruguay to “fight discrimination against LGBT persons both in law and in practice, as it impacts on the possibilities of education, justice and access to health services, with emphasis on the difficulties faced by transgender people.”<sup>22</sup> The State of Costa Rica decided not to accept the section of this recommendation which refers to amendment of laws.<sup>23</sup> While REDLACTRANS congratulates the acceptance of the recommendation, it expresses

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<sup>16</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 413.

<sup>17</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 413.

<sup>18</sup> Report of the Working Group on the Universal Periodic Review: Costa Rica A/HRC/27/12, 7 July 2014, at para.128.69.

<sup>19</sup> Report of the Working Group on the Universal Periodic Review: Costa Rica A/HRC/27/12, 7 July 2014, at para.128.71.

<sup>20</sup> Executive Decree No 37071-S, DAJ-UAL-MG-549-12, 9 March 2012. Available at: [http://www.cipacdh.org/cipac\\_articulo\\_completo.php?art=175](http://www.cipacdh.org/cipac_articulo_completo.php?art=175).

<sup>21</sup> Center for Justice and International Law (CEJIL) and Center for Research and Promotion of Human Rights in Central America (CIPAC), “Diagnostico sobre los crímenes de odio motivados por la orientación sexual e identidad de género en Costa Rica”, [Diagnosis of hate crimes motivated by sexual orientation and gender identity in Costa Rica.] 2010, p. 22.

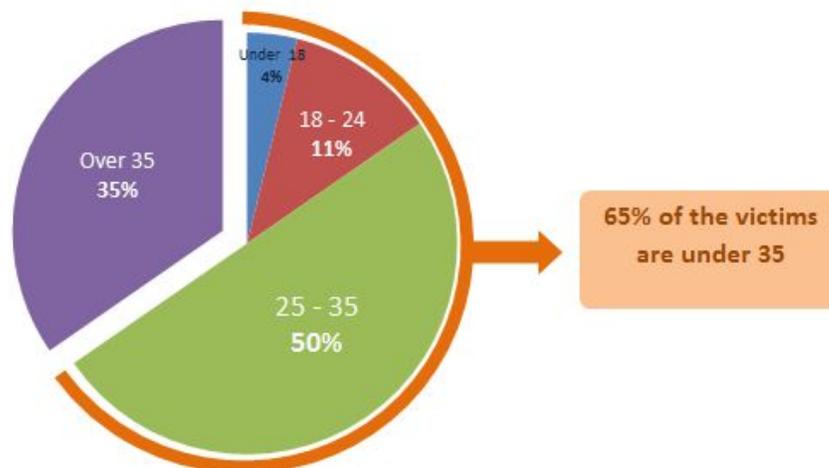
<sup>22</sup> Report of the Working Group on the Universal Periodic Review: Costa Rica A/HRC/27/12, 7 July 2014, at para.128.72.

<sup>23</sup> Report of the Working Group on the Universal Periodic Review: Costa Rica. Addendum. Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, A/HRC/27/12/Add.1, 22 September 2014, p. 9.

its concern about the fact that it has been decided not to accept the possibility to amend laws for the purpose of complying with this commitment. The lack of legal protection, together with the existent prejudice against sexual and gender diversity in agents of the state and the general population, correlate with the serious vulnerable situation that trans persons live in Costa Rica. This concerning situation was verified by the information that REDLACTRANS had access by means of the record of cases of human rights abuses and violations. In this sense, it is imperative to address legal reforms that tend to respect and ensure the rights of trans persons.

20. As regards the inequalities that trans women face from an early age, REDLACTRANS was able to see that **65%** of the victims from the cases surveyed are under 35 years old, and that **50%** of the total of the victims are in the age range between 25 and 35 (chart 1). These figures are consistent with a reality that has been documented previously by REDLACTRANS<sup>24</sup> and the IACHR<sup>25</sup> regarding the young age trans women are victims of violations of their rights.

**Chart 1.** Age of the victims.



## B. The right to gender identity

21. With regard to the recognition of the right to gender identity, there is no gender identity law in Costa Rica that allows trans persons to adapt their personal identification documents through an expeditious and non-pathological administrative review.

<sup>24</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 26; REDLACTRANS, *La transfobia en America Latina y el Caribe: un estudio en el marco de REDLACTRANS*, [Transphobia in Latin America and the Caribbean: a study in the framework of REDLACTRANS.] 2009, p. 54.

<sup>25</sup> Inter-American Commission on Human Rights (IACHR), Press Release 153/14 “An Overview of Violence against LGBTI Persons in the Americas: a Registry Documenting Acts of Violence between January 1, 2013 and March 31, 2014.” 17 December 2014. Available at (in Spanish): <http://www.oas.org/es/cidh/lgtbi/docs/Anexo-Registro-Violencia-LGBTI.pdf>.

22. It is worth mentioning that in 2009, the State accepted a recommendation from Spain in the framework of the Universal Periodic Review, undertaking the commitment to facilitate documentation for transsexual people in line with their identity.<sup>26</sup> However, the only current regulation on the matter is the executive decree which establishes the Rules of the Regulation of the Supreme Electoral Tribunal about photographs for the identity card. This regulation sets forth in section 2:
23. Every person has the right to have their image and sexual identity respected at the moment of taking the photograph that is attached to the identity card. This right must reconcile with the public interest of having an appropriate, safe and reliable identification card. All this makes necessary that the photograph shows the facial features in such a way that permit the identification of the bearer of the identity card.<sup>27</sup>
24. In this regard, REDLACTRANS claims that while the incorporation of photographs in line with the personal image can be deemed as an advance, this measure in itself is not enough to ensure the full realization of the right to gender identity. For this purpose, a law on gender identity must be enacted that sets forth accessible, fast and simple legal mechanisms, preferably administrative, which allow trans persons to modify their registration name and sex in their identification documentation, at the request of the person concerned only and without requiring medical, psychiatric or psychological diagnoses, sterilization, nor any other invasive procedure as a precondition. This law must also ensure the confidentiality of the process and of the documentation involved. In addition, legal assistance should not be a mandatory or exclusive requirement to file the request.
25. As regards the advance in the enactment of new bills, the Inter-American Institute of Human Rights has highlighted the strengthening of the political incidence of religious fundamentalism in Costa Rica, which curbs the advance of the recognition of the rights of trans and LGBTI persons in general. In this sense, many legislative initiatives have been blocked by the strong opposition of the Catholic Church and Pentecostal Christian groups.<sup>28</sup> It was particularly concerning to hear the openly homophobic and transphobic statements made by the former President of the Human Rights Commission from the Congress of Costa Rica, evangelical pastor Justo Orozco, who was a legislator until 30 April 2014.
26. As it will be developed throughout this report, many of the complaints reported by trans women in Costa Rica are direct or indirect violations to the right to freely exercise their own gender identity, free from violence and on equal footing.

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<sup>26</sup> Report of the Working Group on the Universal Periodic Review: Costa Rica, A/HRC/13/15/Add.1, 10 March 2010, para. 9; Draft report of the Working Group on the Universal Periodic Review: Costa Rica, A/HRC/WG.6/6/L.14, 30 December 2009, para. 91.4.

<sup>27</sup> Regulation on photograph for the identity card (Decree No. 08-2010, La Gaceta N°. 127, 1 July 2010), Section 2.

<sup>28</sup> Inter-American Institute of Human Rights (IIDH), Situación de los derechos humanos de poblaciones históricamente discriminadas en Costa Rica: un análisis desde el marco de la justicia, [Human rights situation of historically discriminated populations in Costa Rica: an analysis from the framework of justice.] 2013, p. 23.

27. The member organizations of the network REDLACTRANS claim that the lack of legal recognition that trans persons have suffered for years is one of the main reasons that explain why our basic needs are not met and we have also suffered constant situations of exclusion, marginalization and discrimination. REDLACTRANS has already stated that the lack of recognition of the right to gender identity and the impossibility of accessing identification documents that reflect their gender identity “keep trans women invisible in the official records and systems.”<sup>29</sup> For this reason, despite its high rate of frequency, it is difficult to define precisely the scope of human rights violations against trans women in Latin America due to the lack of specific information about this population.<sup>30</sup>
28. Likewise, the recognition of the right to freely exercise gender identity is fundamental to access economic, social and cultural rights.<sup>31</sup> In effect, the fact of bearing documentation that does not reflect their gender identity puts trans women in a serious vulnerable situation preventing the access to basic human rights such as the right to education, work, health, and housing, among others. In this sense, a gender identity law is perceived by trans persons themselves as a way of countering this historic lack of the full exercise of citizenship.
29. National organizations in other countries of America have documented local experiences after the enactment of a gender identity law, showing that while a law does not automatically eliminate all the factors that contribute to the situation of vulnerability of trans persons, its adoption and implementation caused a noticeably positive impact on the access to rights, life conditions and quality of life of trans persons.<sup>32</sup>
30. Finally, it is important to highlight in this regard that the Inter-American Commission congratulated enthusiastically for the adoption of decrees that ensure the right to gender identity in Mexico City and Colombia, pointing out that in these jurisdictions, the amendment in the registration can be made through “simple administrative procedures”, without requirements that pathologize trans persons.<sup>33</sup>

### C. Institutional violence

31. The institutional violence to which trans persons are subjected to in Costa Rica has been a point of concern by many international human rights protection organizations. For instance, the Inter-American Commission on Human Rights (IACHR), in its recent report on violence against

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<sup>29</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>30</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>31</sup> REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.11.

<sup>32</sup> See: Fundación Huésped, *Asociación de Travestis, Transexuales y Transgéneros de Argentina (ATTTA), Ley de identidad de género y acceso al cuidado de la salud de las personas trans en Argentina, [Gender identity Law and access to health care of trans persons in Argentina.]* 2014. Available in Spanish at: <http://redlactrans.org.ar/site/wp-content/uploads/2014/01/leyGeneroTrans.pdf>.

<sup>33</sup> IACHR, *Press Release 75/15: IACHR Congratulates Mexico and Colombia for Measures Recognizing Identity of Trans Persons*, 1 July 2015.

LGBTI Persons, included Costa Rica among the countries where there is concerning information about acts of violence against LGBT people committed by security forces, including acts of torture, degrading or inhuman treatment, excessive use of force, arbitrary detention and other forms of abuse.<sup>34</sup>

32. In the framework of the Universal System, in 2008, the Committee against Torture (CAT), expressed its concern about the cases of abuse of immigrants and citizens, on the grounds of their transsexual identity in Costa Rica<sup>35</sup> and also expressed its concern about the use of the rules on “public morals”, which in terms of the CAT, “can grant the police and judges discretionary power which, combined with prejudices and discriminatory attitudes, can lead to abuse” against trans persons.<sup>36</sup> Moreover, in 2011, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern about the fact that trans women were victims of abuses and ill-treatment by law enforcement officers.<sup>37</sup>
33. One of the most disturbing findings in the survey of complaints that REDLACTRANS and TRANSVIDA carried out in Costa Rica is the fact that **67%** of the cases were perpetrated by agents of the State, mainly agents of police forces (chart 2).<sup>38</sup> It is alarming that the agents of the State are the main perpetrators of abuses and violations, given that it is a blatant contradiction to the state duty to respect human rights. While it is expected that public agents and officers safeguard life, integrity and safety of every person, the data obtained show that there are still high rates of violence and discrimination promoted from the State by its agents, especially security forces.
34. Among other things, this situation reveals the need for specific training to the forces in order to incorporate contents related to sexual and gender diversity. Likewise, it is necessary to generate the conditions to avoid impunity in this kind of abuses and to start investigations into the criminal activity of the forces so that the acts of institutional violence may be duly punished and their victims may be redressed.

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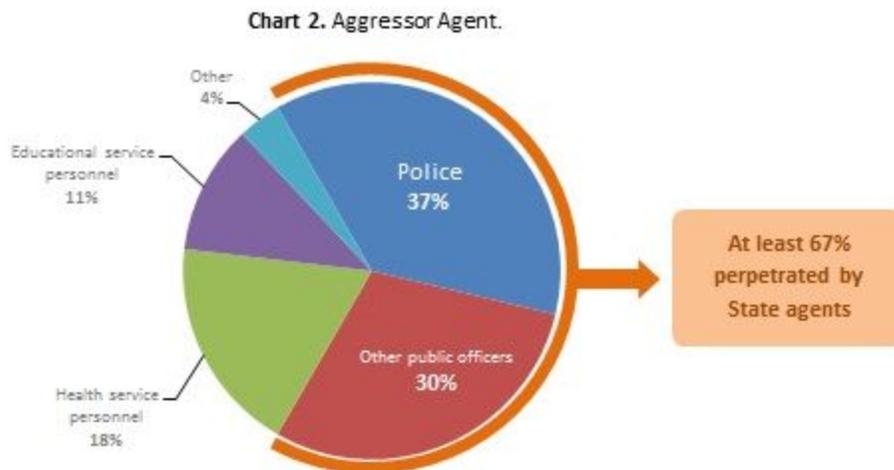
<sup>34</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 130.

<sup>35</sup> Conclusions of the Committee against Torture: CAT/C/CRI/CO/2, 7 July 2008, para. 11.

<sup>36</sup> Conclusions of the Committee against Torture: CAT/C/CRI/CO/2, 7 July 2008, para. 11.

<sup>37</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women: Costa Rica, CEDAW/C/CRI/CO/5-6, 2 August 2011, para. 40.

<sup>38</sup> This percentage is obtained from the sum of the cases perpetrated by police officers (37%) and the cases perpetrated by other/s public official/s (30%). In the latter subgroup we can find, among others, employees of the Costa Rican Social Security Fund (Caja Costarricense de Seguro Social), employees of the Civil Registry of Costa Rica, employees of the Ministry of Public Works and Transport and employees of the Social Protection Board.



35. The data from the survey in Costa Rica are again consistent with the data REDLACTRANS has documented throughout these years in different countries in the region regarding the extreme vulnerability of trans women in sex work<sup>39</sup> who are more exposed to crimes and abuses by police forces. In effect, the absence of a legal framework that recognizes sex work as formal employment leaves those who exercise it with little choice as to where to or under which conditions work and their activity is left to the discretion of the control of administrative or police authorities.<sup>40</sup> In particular, many trans women complained that they were victims of beatings and physical aggressions by the police.
36. In July 2013 the Supreme Court of Justice of Costa Rica declared unconstitutional two subparagraphs of the Penal Code that included “prostitution” and “homosexuality”<sup>41</sup> as cases for the imposition of security measures. However, episodes of physical and psychological violence are registered on a daily basis, while they are not deadly attacks; these are part of the everyday reality that many trans women deal with in sex work. In addition, most of the cases show high levels of extreme cruelty and aggressiveness as a common denominator.
37. The next case from a trans woman shows this kind of aggression. One night, G. was doing sex work when she was violently approached by a police officer who demanded to see her documentation. Then, the officer started to rebuke that she “could not be on the public road like

<sup>39</sup> See, among others: REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, pp. 10, 25 and 27-29; REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.20.

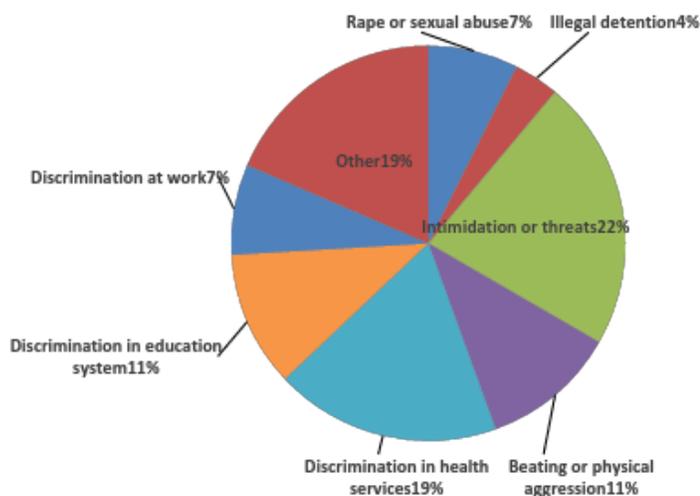
<sup>40</sup> REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.21.

<sup>41</sup> Constitutional Chamber of the Supreme Court of Justice, Vote 2013-010404 from 31 July 2013. Available at: [http://jurisprudencia.poder-judicial.go.cr/pj/scij/busqueda/jurisprudencia/jur\\_repartidor.asp?param1=TSS&nValor1=1&nValor2=606395&strTipM=T](http://jurisprudencia.poder-judicial.go.cr/pj/scij/busqueda/jurisprudencia/jur_repartidor.asp?param1=TSS&nValor1=1&nValor2=606395&strTipM=T).

this”, being “naked” in the streets. Given the aggressiveness the officer addressed her, she had no choice but to obey his orders out of fear of being a victim of physical aggression. However, when she asked for her identity card back, she was taken by the arm and forced to fall to the ground and once subdued the police officer continued assaulting her physically and verbally.

38. In another similar case, M.V. complained that she was working in an area where sex work usually takes place when a police officer approached her and demanded to verify her identity card. As she knew that it is frequent that police officers exercise power abuse once they have trans women identification, she showed it without handing it. This triggered the anger of the officer who took her handbag away from her, inspected its contents and finally threw everything she had in it on the ground. To avoid further difficulties, she defended herself by saying that what he was doing was illegal and that he should leave her belongings. Ignoring her claim, the police officer took M.V. by the arm and led her where the police car was, made her fall to the ground and started beating her and taking photographs with his cell phone to humiliate her.
39. In the framework of this legal loophole and the arbitrariness of the agents of security forces, it is frequent to find attempts to throw trans women out of public areas, which are followed by violent assaults. In effect, A.M. complained that she was in the “authorized” area for sex work when a police car approached and required her to leave. As she refused to do so, the police officers got out of the car and started to insult her and to threaten to arrest her. The assault increased until the officers subdued A.M. to continue assaulting her by means of kicks for at least five minutes. After that, she was left to her own fate with bleeding wounds. Currently, A.M. is still in sex work but fearing to suffer another similar assault or worse than the one sustained.
40. While the most complained abuses were those related to intimidation and threats (chart 3), other complaints tell how police officers humiliate trans women who work as sexual workers, as a simple form of entertainment. Many trans women pointed out that it is frequent that they suffer from teasing and verbal aggression by police officers that approach the areas where they work in police cars. Usually, they insult them, refer to them using male pronouns or shout at them swear words against their gender identity and expression using megaphones without getting down of the police cars. Another frequent practice among police officers is to approach sex work areas with the headlights of their cars off and once they are near, they surprise trans women by pointing the strong headlights at them. Then, as the officers insult them and make fun of them, they threaten to run over them, making them run away immediately from the work area.

**Chart 3.** Kind of abuse.



41. In another complaint, H. a trans woman who works as a sexual worker, told that on one occasion during her working hours a police officer approached to ask for her identity card. When the police officer recognized that she was an activist and an advocate for the rights of trans persons, he threatened to erase her photograph from her document so that she would not be recognized and once undocumented he would take her to the nearest police station. Even though she begged him not to do so, the police officer did so anyway and arbitrarily deprived of her liberty. This kind of outrage worsens and exacerbates the vulnerability situation of many trans women, creating propitious scenarios for other violations in the framework of arbitrary detention.
42. However, not only trans women who are sexual workers suffer from police abuse. One of the cases is about W. who was chased by a police car after being identified as a trans woman while she was riding her bicycle, running errands for her job. As she was intercepted, she was asked for documentation to prove that she had bought that bicycle. As she said that she had no such documentation, she was detained, handcuffed, got in the police car and deprived of her liberty for many hours. As an additional problem to the outrage, the police officers completely abandoned W.'s bicycle, which was her work vehicle, leaving it abandoned in the street. As a result, she was arbitrarily deprived of her liberty, without a formal entry in the registry of the police and she lost her work tool as she could not recover her bicycle.

#### **D. The right to health**

43. As regards the right to health, the legal system of Costa Rica sets forth in section 3 of the General Health Law No. 5395 that

every inhabitant has the right to health benefits, as determined by special laws and regulations and the duty to provide the maintenance of their health and to meet the maintenance of the health his/her family and of the community.<sup>42</sup>

In addition, as mentioned above, the general law about HIV/AIDS, expressly incorporates the prohibition to discrimination based on “sexual (...) option” [sic], without including explicitly gender identity.<sup>43</sup>

44. It is worth mentioning that in 2011 the CEDAW expressed its concern about the lack of guarantees to comply with the right to access to health for trans women and also the abuses and mistreatment they suffer by health services providers.<sup>44</sup>
45. REDLACTRANS received many complaints that show that the administrative and professional personnel of the health services in Costa Rica do not possess the training nor the sensitizing in human rights and the rights of trans persons. Neither does exist public inclusion policies that consider the trans population that may permit their full access to health services on equal footing. In effect, there have been different cases documented, where health care operators and public and private service providers rejected trans women and denied care and basic services just because they were trans women. On many occasions, these rejections were accompanied by verbal aggression, stigmatizing statements or humiliations of all kinds based on their gender identity.
46. Usually, this leads to trans women who are transitioning to make their gender expression be in line with their gender identity without the possibility of having health personnel duly monitoring the process for the purpose of ensuring their physical and psychological integrity. As a result, they are forced to resort to mechanisms of altering their bodies without the proper monitoring, with poor asepsis and technical conditions, usually using implants or harmful substances to their health that risk their health and even their own lives. This situation worsens when they resort to health centers and the personnel discriminates them and prevents them from accessing basic health services.
47. For example, one of the cases registered is about the discrimination that Z. suffered. Z is a trans woman who had oil injected in her breasts because she could not afford silicone implants. Specifically, the woman was discriminated by the doctors of a health center when she asked for medical attention as a result of the intense pain she was suffering due to the injected oil. However, those who received her refused to give her medical attention and told her that she “had to go and complain to the person who had injected the substance.”

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<sup>42</sup> General Health Law No. 5395 (Ley General de Salud No. 5.395), s. 3. Available at: [http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm\\_texto\\_completo.aspx?param1=NRTC&nValor1=1&nValor2=6581&nValor3=96425&strTipM=TC](http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=6581&nValor3=96425&strTipM=TC).

<sup>43</sup> General Law about HIV/AIDS (Ley General sobre VIH-SIDA), Law 7771. Available at: [http://www.asamblea.go.cr/sil\\_access/ver\\_ley.aspx?Numero\\_Ley=7771](http://www.asamblea.go.cr/sil_access/ver_ley.aspx?Numero_Ley=7771).

<sup>44</sup> Committee on the Elimination of Discrimination against Women. Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/CRI/CO/5-6, 29 July 2011, para. 40. Available at: <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-CRI-CO-5-6.pdf>.

48. M.E. complained about a similar situation. She had oil injected because she did not have access to a well monitored medical treatment. When she went to a public hospital, the doctor who saw her told her that the “only solution” he knew was to “mutilate” her breasts, as “men have no breasts.”
49. Another case is that of L., a trans woman who suffered medical malpractice in a surgical operation. As a result of the action of the Medical Management and the Ombudsman, she was sent to Dr. Marcial Fallas de Desamparados Health Center, so that she may receive a medical treatment to alleviate said malpractice. Once she was there, she asked to see the director of the center but his assistant, without even reading her papers told her that they “could only provide psychological and psychiatric assistance” implying that the fact of being trans requires such treatments. Faced with this humiliation, L. found she could not access the health service that had been recommended.
50. The documented and systematized information shows that discrimination to the trans community is not exclusive to health services in the public sphere. R.M. a trans woman who worked for a company and had a medical insurance from the Costa Rican Social Security Fund (Caja Costarricense de Seguro Social) made a complaint for discrimination. Specifically, R.M. went to get medical attention to start a hormone treatment but the doctor who saw her refused to provide such service “because ‘he’ was a man.” He added that he could not process the service “because men should be men” and the procedure with hormones is “unnatural.”

## E. The right to education

51. In Costa Rica, the right to education is enshrined in Title VII of the Political Constitution of Costa Rica.<sup>45</sup> In addition, the Fundamental Education Law sets forth that “every person has the right to education and the State has the obligation to offer proper education to the widest number of people.”<sup>46</sup>
52. Even so, REDLACTRANS has confirmed cases of discrimination in the school environment, including assault by teaching staff and directors. In effect, from the registered information we can conclude that school bullying based on gender identity and expression is one of the main problems that a trans woman must face when she wants to access the education system.
53. An example of this is the case of L.P., a trans woman who had started her hormone treatment and suffered from discrimination by the personnel at the educational center she attended. While she had been socially integrated by her classmates, the director of the educational institution refused to refer to her by using her social name and never stopped treating her with the name she was given when she was born. Even though L.P. filed the relevant internal complaints to have her gender identity respected, the director ignored her complaints and

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<sup>45</sup> Political Constitution of Costa Rica, articles 77 to 88. Available online at: [http://www.asamblea.go.cr/Centro\\_de\\_Informacion/biblioteca/Paginas/Constituci%C3%B3n%20Pol%C3%ADtica%20de%20Costa%20Rica.aspx](http://www.asamblea.go.cr/Centro_de_Informacion/biblioteca/Paginas/Constituci%C3%B3n%20Pol%C3%ADtica%20de%20Costa%20Rica.aspx).

<sup>46</sup> Law No. 2160, Fundamental Education Law (Ley Fundamental de Educación). s. 1. Available at: <http://www.mep.go.cr/ley-reglamento/ley-n%C2%BA-2160-ley-fundamental-educacion>.

persisted in his discriminatory attitude. The degree of discrimination and harassment made her leave the institution. Currently, she is finishing secondary school with the help of TRANSVIDA.

54. In another similar case, M.I., a young trans woman who was in the last year of secondary school at a secondary technical school was victim of constant bullying and mocking by one member of the teaching staff. According to what M.I. said in her report, after starting her transition process, she got support from her classmates and from the majority of the teaching staff. However, one teacher (a woman) continued harassing her, disrespecting her gender expression and identity, calling her on purpose by the name she received when she was born. To face this situation, she made a media campaign with statements and stories in the mass media reporting the abuses and the discrimination suffered.
55. Another systematized case tells how Y. a trans woman could not study at secondary school during her adolescence due to the violence and the bullying she suffered as the result of her gender identity and expression. Currently, she is attending an institute for adults. As she informed, she is in fourth year of secondary school at an institute where the director conditions her for her gender expression, ordering her to tie her hair and not to wear any make up. This situation worsens as she had lost a leg in an accident, she earns a living by selling food in the streets and for this reason she has asked for permission to the institute to sell her products on the premises. However, the director denied the opportunity to sell food either inside or outside the institution because he said it “would give a bad image” to the institute.

## F. The right to work

56. As regards the right to work, the Political Constitution of Costa Rica sets forth that

work is a right of the individual and an obligation to the society. The State should endeavor that everyone has lawful and useful employment, properly paid and prevent the establishment on that account of conditions which might in any way curtail a person's freedom or dignity or degrade their labor to the status of a mere commodity. The State ensures the right to free choice of employment.<sup>47</sup>

However, this article outlines a premise that is completely different from the situation that trans women face in Costa Rica.

57. As it was previously documented by REDLACTRANS, as a direct consequence of the structural social exclusion that trans women are subjected to, the lack of educational opportunities, the early expulsion from their homes and the impossibility to have identity documents that reflect their gender identity, among other reasons, trans women resort to sex work in the streets as a survival alternative.<sup>48</sup> According to the information obtained, 55% of the complainants do sex

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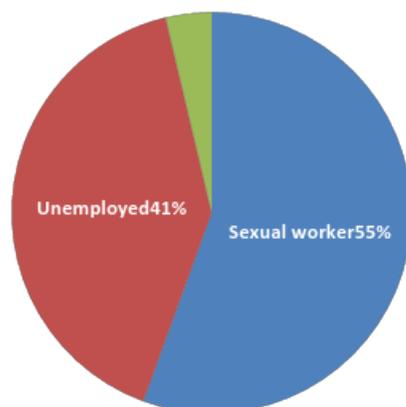
<sup>47</sup> Political Constitution of Costa Rica, article 56.

<sup>48</sup> REDLACTRANS, *La transfobia en America Latina y el Caribe: un estudio en el marco de REDLACTRANS*, [Transphobia in Latin America and the Caribbean: a study in the framework of REDLACTRANS.] 2009, p. 44. Likewise, see: Inter-American Commission on Human Rights (IACHR), *Violence against LGBTI Persons*, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 280.

work in order to survive (chart 4). As it was detailed above, trans women who resort to sex work are usually victims of all kinds of assaults and abuses by the police forces.<sup>49</sup>

58. In addition, 41% of abuse victims claimed to be “unemployed” at the moment of reporting their complaint to the record and only 4% said to have an occupation other than sex work. This concerning situation reveals the serious vulnerability trans women are left as the result of, among other factors, school dropout due to discrimination and bullying, the existent prejudice against trans persons within the Costa Rican society and the lack of public policies that generate social inclusion for the trans population according to their capacities and personal interests.
59. Furthermore, even when trans women manage to obtain or to remain in formal employment, we have received complaints about mistreatment at the work environment. This was the case of N.P., a trans woman who worked at the Ministry of Public Works and Transport for six years. After starting her transition process, she started to be subjected to violence, verbal bullying and physical harassment by her coworkers, who among other things, humiliated her and disrespected her by touching her inappropriately. N.P. said that the institution did not react before the aggression, which enabled the proliferation of the general harassment. Even though she complained in that regard, she never got an answer and as a result of the increased bullying she finally abandoned her position.
60. A further case is from M.B., a trans woman who works as an activist and an advocate for the human rights of trans persons. She had the opportunity to work in a project on violence prevention that the Board of Social Protection set up, however, on many occasions, when she approached the meetings of the project, the secretary refused to use the name by which M.B. perceives herself and continued referring to her with the name she received when she was born that appears in her identity card.

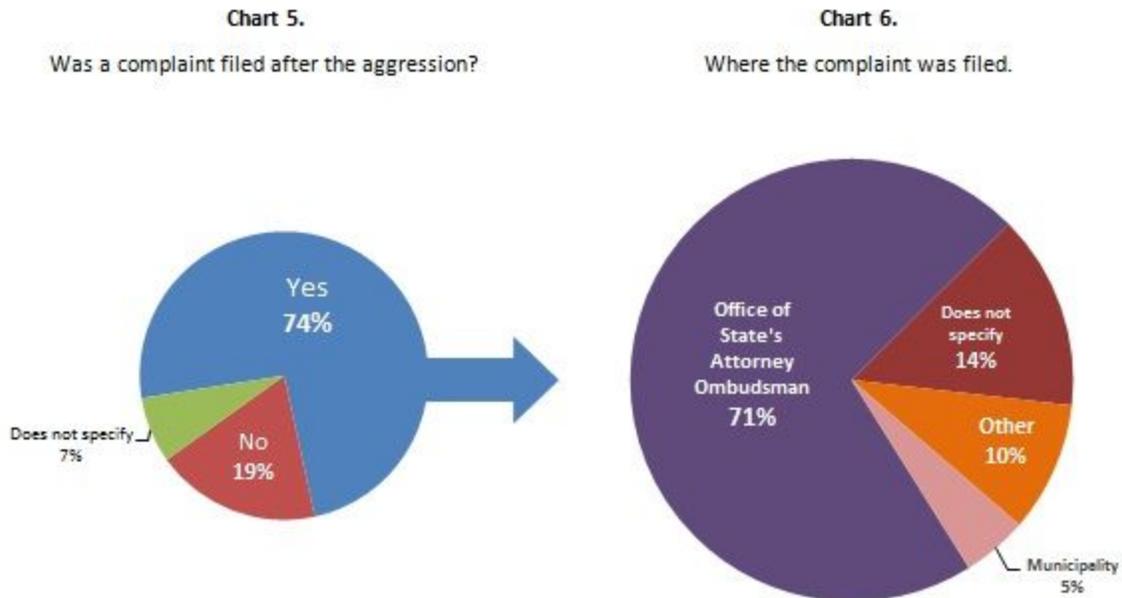
Chart 4. Occupation of the victim.



<sup>49</sup> See “Institutional violence” section in this report.

## G. Access to justice

61. As regards the attitude of the victims after suffering an outrage or a violation to their rights, we can conclude from the received information that 74% of the victims made a complaint before government agencies (chart 5). However, it must be highlighted that the majority of the complaints are made before organizations that are not security forces, particularly the Ombudsman and the Office of the State’s Attorney (56%) as the preferred places (chart 6). This shows the distrust to the police by trans women who are victims of abuses and violations to their rights. In turn, this is in line with the fact that police officers are the main perpetrators of the assaults against them.
62. Naturally, trans women are unwilling to resort to an official body that permanently humiliates them, assaults and persecutes without offering them any guarantee that they will be treated with respect in case of filing a complaint, in which besides, the members of said force are accused of being the aggressors. In this way, the police, which are supposed to be the closest entity to the community in order to file a complaint, are not a safe and reliable option to call for protection and legal support. In fact, there were not any registered cases at police stations (chart 6).



### 3. SITUATION IN EL SALVADOR

#### A. The right to equality and non-discrimination

63. The local Constitution sets forth that all individuals are equal before the law<sup>50</sup> but it does not explicitly state that gender identity can be a prohibited ground for discrimination. In addition, it is worth mentioning that there is no comprehensive legislation that explicitly prohibits discrimination based on gender identity.
64. REDLACTRANS congratulates that the State created the Secretariat of Social Inclusion for the implementation of inclusion policies for the vulnerable and excluded populations. This branch has a Sexual Diversity Division whose main objective is to advise on the contents of public policies, plans and programs that come from executive body in favor of the LGBT population. This agency bases its activities on Executive Decree 56/2010 called “Provisions to avoid all forms of discrimination in the public administration on gender identity and sexual orientation”,<sup>51</sup> which establishes the basis to prevent government agents within the executive branch from perpetrating acts of violence against the LGBTI population. The State informed at the hearing before the IACHR in October 2013 that sanctions would have been applied to officers from prisons, the Ministry of Foreign Affairs, the Salvadoran Institute of Children and Adolescents, the Department of Culture and the National Civil Police<sup>52</sup>. Furthermore, the State also expressed in the same hearing that “was aware of the need to adopt measures so that [trans persons] could achieve the effective exercise of their rights and consequently has tried to carry out some affirmative actions in different areas.”<sup>53</sup>
65. While the issuance of this decree and the policies that have followed it are definitely positive developments, it must be noted that this decree has an area of application limited to public administration, that is to say, it governs the performance of the employees of the executive branch only and it is far from being a general law applicable to the three branches or society in general. In this sense, REDLACTRANS urges El Salvador to adopt rules of general application that expressly consider gender identity as a prohibited ground for discrimination. In this line, REDLACTRANS and ASPIDH congratulate the recent modifications to the Penal Code of El Salvador, which incorporated gender identity and expression as aggravating circumstances of

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<sup>50</sup> Constitution of the Republic of El Salvador, article 3. Available at: <http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/constitucion-de-la-republica>.

<sup>51</sup> Executive Decree 56/2010, “Provisions to avoid all forms of discrimination in the public administration on gender identity and sexual orientation” (Disposiciones para evitar toda forma de discriminación en la administración pública por la razones de identidad de género y orientación sexual), 12 May 2010. Available at: [http://asp.salud.gob.sv/regulacion/pdf/decretos/acuerdo\\_56\\_discriminacion\\_sexual.pdf](http://asp.salud.gob.sv/regulacion/pdf/decretos/acuerdo_56_discriminacion_sexual.pdf).

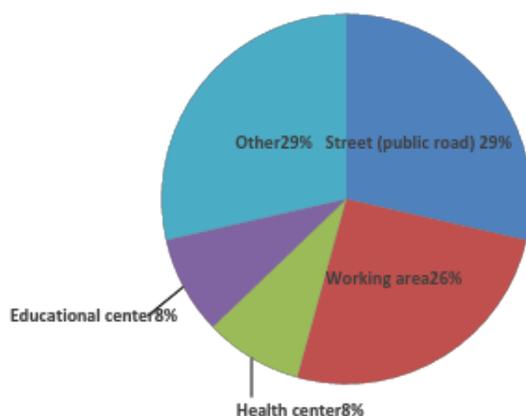
<sup>52</sup> Inter-American Commission on Human Rights (IACHR), Public Hearings: Reports of Violence against Trans People in El Salvador, 149th regular session, 30 October 2013. Available at: <https://www.youtube.com/watch?v=481oU6ZUnFA>.

<sup>53</sup> Inter-American Commission on Human Rights (IACHR), Public Hearings: Reports of Violence against Trans People in El Salvador, 149th regular session, 30 October 2013 (watch minute 32:03). Available at: <https://www.youtube.com/watch?v=481oU6ZUnFA>.

threats<sup>54</sup> and homicides.<sup>55</sup> This measure means an advance in the prevention and punishment of crimes against people who break gender norms.

66. While there have been some advances in terms of legislation and public policies in the framework of the public administration, unfortunately, REDLACTRANS continues receiving significant information about human rights violations that are not prevented nor redressed. Specially, public spaces are still a hostile environment and of high risk for the trans community, which is aggravated by the lack of general public policies to eradicate the existent discrimination. In this sense, most of the cases of violations of rights of trans persons took place in public spaces reflecting the degree of impunity with which they are assaulted (chart 1).

**Chart 1.** Where the incident took place.



## B. The right to gender identity

67. REDLACTRANS and ASPIDH express their concern about the absence to date of a gender identity law that ensures the right of trans persons to rectify their registration documents through a simple and non-pathological procedure.

68. Likewise, it is deeply concerning that El Salvador had decided not to accept two key recommendations related to the right to gender identity in the framework of the Universal Periodic Review. In effect, El Salvador only limited to “note” the recommendation made by Spain which proposed

draft, in consultation with civil society, and adopt a law on gender identity for transgender persons in which their right to identity is recognized among other civil and political rights.<sup>56</sup>

<sup>54</sup> Penal Code of El Salvador. S. 155. Available at: <http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/codigo-penal>.

<sup>55</sup> Penal Code of El Salvador. S. 129. Available at: <http://www.asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/codigo-penal>.

<sup>56</sup> Report of the Working Group on the Universal Periodic Review: El Salvador, A/HRC/28/5, 17 December 2014, para. 105.32.

69. Similarly, El Salvador decided not to accept the Colombian recommendation that urged El Salvador to “guarantee the right of all people to live and develop in accordance with their self-perceived gender identity.”<sup>57</sup>
70. REDLACTRANS and ASPIDH argue that while this measure can be considered an advance, it is not in itself enough to ensure the full exercise of the right to gender identity. To ensure this right a law must be enacted as recommended in the section recommendations to the States of this report.
71. The member organizations of the network REDLACTRANS claim that the lack of legal recognition that trans persons have suffered for years is one of the main reasons that explain why our basic needs are not met and we have also suffered constant situations of exclusion, marginalization and discrimination. REDLACTRANS has already stated that the lack of recognition of the right to gender identity and the impossibility of accessing identification documents that reflect their gender identity “keep trans women invisible in the official records and systems.”<sup>58</sup> For this reason, due to the lack of specific information and despite its high rate of frequency, it is difficult to define precisely the scope of human rights violations against trans women in Latin America.<sup>59</sup> Likewise, the recognition of the right to freely exercise gender identity is fundamental to access economic, social and cultural rights.<sup>60</sup> In effect, the fact of bearing documentation that does not reflect their gender identity puts trans women in a serious vulnerable situation preventing the access to basic human rights such as the right to education, work, health, and housing, among others. In this sense, a gender identity law is perceived by trans persons themselves as a way of countering this historic lack of the full exercise of citizenship.
72. National organizations in other countries of America have documented local experiences after the enactment of a gender identity law, showing that while a law does not automatically eliminate all the factors that contribute to the situation of vulnerability of trans persons, its adoption and implementation caused a noticeably positive impact on the access to rights, life conditions and quality of life of trans persons.<sup>61</sup>
73. Finally, it is important to highlight in this regard that the Inter-American Commission congratulated enthusiastically for the adoption of decrees that ensure the right to gender identity in Mexico City and Colombia, pointing out that in these jurisdictions, the amendment in

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<sup>57</sup> Report of the Working Group on the Universal Periodic Review: El Salvador, A/HRC/28/5, 17 December 2014, para.105.36.

<sup>58</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>59</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>60</sup> REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.11.

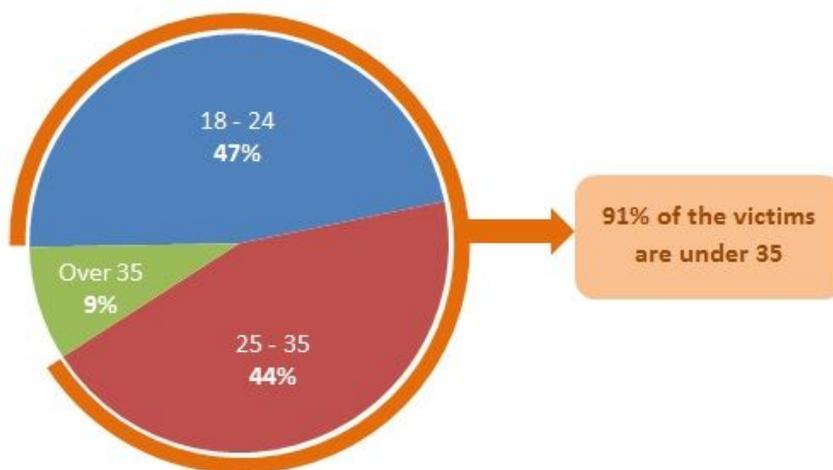
<sup>61</sup> See: Fundación Huésped, *Asociación de Travestis, Transexuales y Transgéneros de Argentina (ATTA), Ley de identidad de género y acceso al cuidado de la salud de las personas trans en Argentina, [Gender identity Law and access to health care of trans persons in Argentina.]* 2014. Available in Spanish at: <http://redlactrans.org.ar/site/wp-content/uploads/2014/01/leyGeneroTrans.pdf>.

the registration can be made through “simple administrative procedures”, without requirements that pathologize trans persons.<sup>62</sup>

### C. The right to life and personal integrity

74. REDLACTRANS and ASPIDH have systematized information about violent situations that trans women face on a daily basis in El Salvador. Among the situations, there are cases of killings motivated by gender identity and expression, physical aggressions, harassment and psychological or verbal harassment.
75. It is concerning that **91%** of the victims that complained about violations to their rights were under 35 years old (chart 2). Further, 47% of the total of the cases received were in the age group between 18 and 24 years old. These figures are consistent with a reality that has been documented previously by REDLACTRANS<sup>63</sup> and the IACHR<sup>64</sup> regarding the young age trans women are victims of violations of their rights.

**Chart 2.** Age group of the victims



76. In addition, it can be seen from the collected information a wide variety of areas denounced as aggressor agents. We registered complaints from cases that took place in the educational, health, work areas, public security and public areas in general. It must be highlighted that police

<sup>62</sup> IACHR, Press Release 75/15: IACHR Congratulates Mexico and Colombia for Measures Recognizing Identity of Trans Persons, 1 July 2015.

<sup>63</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 26; REDLACTRANS, *La transfobia en America Latina y el Caribe: un estudio en el marco de REDLACTRANS*, [Transphobia in Latin America and the Caribbean: a study in the framework of REDLACTRANS.] 2009, p. 54.

<sup>64</sup> Inter-American Commission on Human Rights (IACHR), Press Release 153/14 “An Overview of Violence against LGBTI Persons in the Americas: a Registry Documenting Acts of Violence between January 1, 2013 and March 31, 2014.” 17 December 2014. Available at (in Spanish): <http://www.oas.org/es/cidh/lgtbi/docs/Anexo-Registro-Violencia-LGBTI.pdf>.

forces and gangs were the two most denounced groups as perpetrators of the violations of the rights of trans persons.

77. We can see from the results of the information collected that the majority of the cases are intimidations and threats, beatings or physical aggressions and situations of discrimination in the access to health services.
78. One of the complaints about homicides is that of P., a trans sexual worker, who was murdered by a man while she was offering her services. The murderer, from his car, asked P. about the services she offered. After checking she was a trans woman, he left to return later with a gun, shot her and escaped. Fearing retaliation, the eyewitnesses did not make further statements about the events. According to the information provided, P. worked at a “liberated area” by security officers for the supply of sex work. All the same, this situation does not guarantee the protection and integrity of sexual workers, nor allow the police to provide rapid responses to violence situations.
79. Another homicide is that of O. a trans woman who was missing until a few days later her body appeared in a mass grave. Police officers had registered her body as that of a “man” not seeing her gender identity. Furthermore, the reports from the office of the prosecutor only limited to assume that the crime was committed by a gang without any specific measure to arrest or prosecute its members.
80. In line with the above, the information collected shows the lack of trust in the police and judicial system. Many trans women emphasized that when they sought protection from the members of the security forces, they were ejected, ignored and/or re-victimized. REDLACTRANS and ASPIDH consider that it is deeply concerning that none of the complaints was made before the National Civil Police.
81. A further case of assault with a high level of violence and extreme cruelty is that of R. a trans sexual worker. As she told, she was offering her sexual services in the public road when three individuals got out of a car. They talked to her about her services until they suddenly demanded for her money and her belongings. As R. resisted, the aggressors insulted her for her gender identity and savagely beat her with a baseball bat and pieces of wood with nails in her face and body. Finally, she managed to shelter and to avoid being murdered but she felt forced to leave the country fearing to suffer again this kind of aggressions.
82. We also received information about the aggressions perpetrated by military agents. The complaint was made by E. who was approached by three militaries in the public road. After asking for her identity card and check her handbag, they determined that she was a trans woman and proceeded to withhold her identity card. As E. asked for her identification, the men threw her handbag to the ground and when she tried to pick it up they hit her hard until she was unconscious. Finally, the militaries ran away leaving her in a serious condition and without giving back her identity card.
83. In addition, trans women in El Salvador live everyday under threat of death due to their gender identity or expression. In effect, one of the many cases in this regard shows how a group of

trans women denounced a group of police officers who frequently approached them wearing hoods to threaten to kill them because they considered them “a bad influence for society.” On some occasions, the police officers ejected them from where they were with violent methods such as using tear gas or straightaway, physically assaulting them.

84. In line with the previous case, another group of trans women indicated that police officers threatened to kill them and physically assaulted them. The impunity they had made them leave the town to avoid further risks. The only reason they returned to their place of origin is because the officers who used to assault them were arrested due to their connections with drug trafficking and with criminal offences committed by gangs.
85. As regards the large number of cases perpetrated by gangs, T. another trans woman, gave information about this kind of aggression. Specifically, she told that she was travelling on a bus when a group of young people made her get off the bus. She followed the orders to avoid the situation from getting more violent but they got off with her. Then, they started to push and insult T. due to her gender identity. When she fell to the ground, they started to physically assault her with extreme cruelty and finally left with her belongings and her identity card.
86. In accordance with the information that O. provided, ever since she arrived at the neighborhood, she was a victim of death threats due to her gender identity and expression. Never had she suffered physical aggressions, until one night, while she was coming in her house, O. was approached by a gang who got inside her house with her. Once inside, they hit her and in order not to be murdered, they gave her five minutes to leave her house but she had to leave all her belongings inside. To survive, O. had to leave her house and her belongings.
87. In the framework of the hearing about the rights of trans women in El Salvador, the State informed that from May 2013 there is a helpline for sexual diversity which works with a short number “131”, for free and confidentially, 24 hours a day, 365 days of the year, providing the LGBTI population with information about their rights, legal advice in cases of discrimination and psychological support.<sup>65</sup> However, many trans women reported that they got to communicate on very few occasions. They were told that this service has very few people to provide assistance, which makes it difficult to establish the communications.

#### **D. Persons deprived of their liberty**

88. We have learnt from the information provided by our complainants that trans women who are deprived of their liberty are not acknowledged nor considered their vulnerable situation. Specifically, they are imprisoned in accordance with their registration gender, without having a say in the decision about their location. This deepens their vulnerability as this situation increases the risk of being assaulted and very frequently, being victims of sexual violence.

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<sup>65</sup> Inter-American Commission on Human Rights (IACHR), Public Hearing: Reports of Violence against Trans People in El Salvador, 149th regular session, 30 October 2013 (watch minute 33:12). Available at: <https://www.youtube.com/watch?v=481oU6ZUnFA>.

89. In that regard, the State must take into consideration the Yogyakarta Principles on the application of international human rights law in relation to sexual orientation and gender identity. Specifically, principle 9 states

everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the human person. Sexual orientation and gender identity are integral to each person's dignity.<sup>66</sup>

90. In the framework of the Inter-American Human Rights System, the IACHR, in the report on Violence against LGBTI Persons, has recommended the States

to adopt the necessary measures to ensure that the decision on where to place trans persons (who are in detention facilities, including prisons, police stations and immigrant detention centers) is made on a case by case basis, with due respect to the person's dignity and whenever possible, with prior consultation with the involved trans person.<sup>67</sup>

91. In addition, the IACHR has expressed its concern about the cases of violence, torture and degrading and inhuman treatment that trans persons who are deprived of their liberty suffer. In particular, the Commission affirms that when trans persons are in confinement experience lack of protection and this leads to disproportionate suffering of acts of torture and other forms of mistreatment.<sup>68</sup>

92. In connection with this problem, T. a trans woman who was a prisoner at the local prison "La Esperanza" in Mariona said she was in the same cell with men and thus she was a victim of physical aggressions based on her gender identity and expression on a daily basis. One night, prison officers took her from the area isolating her from the other people deprived of their liberty. Then, the prison officers insulted her and laughed at her gender identity until they started to hit her and to sexually abuse her. While she was begging for her life, she was filmed with the cell phone of one of the officers. When they finished assaulting her, they cut her hair to send her to another prison because she was told that "there was no room for fags."

93. REDLACTRANS learnt from the information provided by M.J., another trans woman deprived of her liberty, who denounced that she had been deprived of the access to health services during her confinement. M.J. said that she could not continue her HIV treatment even when the personnel knew the continuity of the treatment was of vital importance. During a considerable period of time she was prevented from continuing with her antiretroviral therapy which caused a clear deterioration of her health. The person in charge of the health service in the prison denied the access to the medication, emphasizing that his decision was based on "his hate to trans persons."

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<sup>66</sup> Yogyakarta Principles. Principles on the application of international human rights law in relation to sexual orientation and gender identity, 2006, principle 9. Available at [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf).

<sup>67</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II. Doc. 36, 12 November 2015, para. 521.104. Available at: <http://www.oas.org/es/cidh/informes/pdfs/ViolenciaPersonasLGBTI.pdf>.

<sup>68</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II. Doc. 36, 12 November 2015, para. 145. Available at: <http://www.oas.org/es/cidh/informes/pdfs/ViolenciaPersonasLGBTI.pdf>.

94. M. a Nicaraguan trans woman submitted information about the situation she experienced when she was arrested by the border police when she entered El Salvador. On that occasion, the police officers kept her arrested for a few days during which she was poorly fed, hit, humiliated and physically assaulted. In addition, during her confinement, M., who lives with HIV, was deprived of her necessary antiretroviral therapy. This led to serious complications in her health.

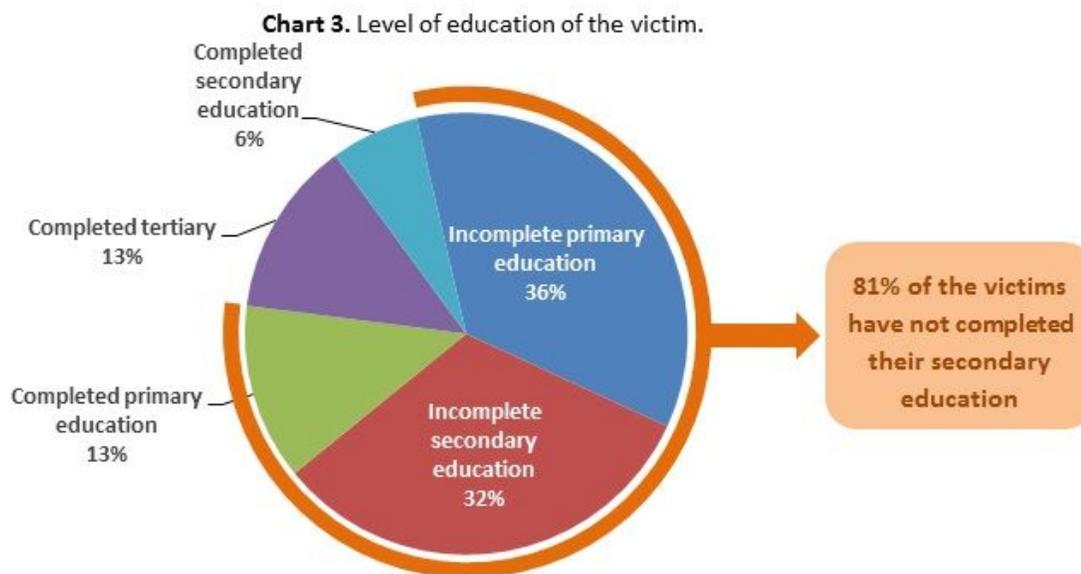
## E. The right to education

95. The Constitution of the Republic of El Salvador enshrines in article 53 the right to education as an inherent right to every person, and its preservation, promotion and dissemination is the obligation and the main purpose of the State.<sup>69</sup> Additionally, it is stated that “all inhabitants of the Republic have the right and the duty to receive a simple (parvularia) and basic education that will train them to perform as useful citizens.”<sup>70</sup>
96. Even though the right is enshrined in generic terms, there is no regulation that sets forth legal protection based on gender identity in the educational field. In fact, REDLACTRANS had access to complaints in which trans women, far from enjoying this constitutional right, had suffered different kinds of humiliations and physical or verbal aggressions or had been expelled from the basic education system.
97. At first sight we can see with concern that **81%** of the complainants could not complete secondary education (chart 3). Clearly, this situation is the consequence of the lack of comprehensive public policies for the protection of young, adolescents and adult trans persons who wish to study at the basic or higher education. In effect, the State must carry out public policies that lead to the prevention and the eradication of violence and school bullying or any other act of discrimination within the educational field.

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<sup>69</sup> Constitution of the Republic of El Salvador, article 53.

<sup>70</sup> Constitution of the Republic of El Salvador, article 56.



98. The case of A., a trans woman of 20, shows the prejudice and the stigma a trans woman must face when she wants to register in an educational center to complete her secondary education. The administrative employee of the center denied her the possibility to register because, as he pointed out “God had created only men and women” and thus “he only acknowledged those identities.” It is known that accessing the basic knowledge and/or a possible high school diploma would be a significant improvement in the number of tools a trans woman would have to access formal employment, generate social mobility and to improve her quality of life.
99. In other case, Q., a young trans woman, complained that she had been a victim of school bullying when she assumed and socialized her gender identity in secondary school. As she informed, her classmates laughed at her and humiliated her due to her trans condition. The situation worsened when there were no answers from authorities or guardians within the classroom, as they were not sensitized, they fostered the bullying. In this context, Q. was prevented from continuing her secondary studies. In this sense, the acts of contempt, abandonment, violence and discrimination that Q. had to face caused serious psychological consequences, to the extent that she tried to commit suicide on many occasions.
100. H., another young trans woman complained that she had been discriminated and bullied during her secondary education studies by a teacher. In effect, H., who had socialized her gender identity, was ridiculed by a teacher. During the class, every time she had to refer to H., she raised her voice to stress her registration name. In response to this, H. expressed her discomfort but the teacher told her that she based on the data that appeared in her identity card. This situation allowed the students to disrespect her worsening the bullying she suffered. Finally, to stop being a victim of abuse, humiliation and school bullying, she felt forced to abandon her secondary education.

101. These cases show the consequences of the lack of implementation of plans or programs that comprehensively sensitize the agents of the educational system about the vulnerability of trans persons.

## F. The right to health

102. The health of Salvadoran inhabitants “constitutes a public good” in accordance with the Constitution.<sup>71</sup> It also sets forth that it “is the obligation of the State to secure for the inhabitants of the Republic, the enjoyment of liberty, health, culture, economic well-being and social justice.”<sup>72</sup>
103. Likewise, the Yogyakarta Principles state that “everyone has the right to the highest attainable standard of physical and mental health, without discrimination on the basis of sexual orientation or gender identity.”<sup>73</sup>
104. The cases REDLACTRANS had access show that health services do not operate in accordance with what is enshrined in the current local legislation. In this sense, the information provided by J., a Salvadoran trans woman, tells the acts of discrimination in the health service. In effect, J. had been sent to a public hospital to receive psychological treatment. At the admission meeting, the psychologist in charge of the service refused to carry out the relevant treatment until she “dressed as a man” because “that was her sex”. After that, he verbally harassed her denigrating her for being a trans woman.
105. M.L., another trans woman provided information about the discrimination she suffered in another health center. She went to a health center in order to ask for an appointment with a general practitioner, but the administrative employee who received her refused to give her the appointment because the name and sex on her identity card did not coincide with her physical appearance. The person in charge of granting appointments refused to give her an appointment until she “dressed as a man.” Faced with such humiliation, M.L. found it impossible to access the required health services.
106. Another case was that of H., a trans woman who was discriminated in another public hospital. She went to see another trans woman who was in hospital. At the reception, H. was notified that her friend was in the area of male surgery. Faced with this humiliating situation, both women tried to make the relevant complain but, in response, they were expelled from the place, even when her friend had not received medical discharge.

## G. The right to work

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<sup>71</sup> Constitution of the Republic of El Salvador, article 65.

<sup>72</sup> Constitution of the Republic of El Salvador, article 1.

<sup>73</sup> Yogyakarta Principles. Principles on the application of international human rights law in relation to sexual orientation and gender identity, 2006, principle 17. Available at: [http://www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf).

107. In El Salvador, the right to work is enshrined in the local Constitution.<sup>74</sup> However, its fulfillment is not subject to the prohibition of discriminatory acts motivated by gender identity.<sup>75</sup>
108. We must mention as an exception that there is a provision that prohibits discrimination against trans persons who work in the executive branch under the Decree 56/2010.<sup>76</sup> As informed by the State at the public hearing before the IACHR in October 2013, trans women have been hired at the different venues of the program “Women City” (“Ciudad Mujer”) recognizing their gender identity and facilitating access to formal employment and the necessary support even in processes of entrepreneurship.<sup>77</sup> However, the trans women who were hired had denounced suffering persecution, harassment, discrimination and even death threats by the leadership of the program. As a result, many trans women were forced to resign.
109. In this sense, there are few job opportunities for trans women in El Salvador. There is no comprehensive legal protection to access the labor market, neither public policies that foster their social inclusion nor policies nor plans that lead to eradicate the discrimination they suffer.
110. In this context, REDLACTRANS and ASPIDH find it concerning that **60%** of the complainants are unemployed or do sex work to survive (chart 4). The latter provides them with means of subsistence but exacerbate their social exclusion and they are subject to unsafe conditions and to a high risk for their personal safety.

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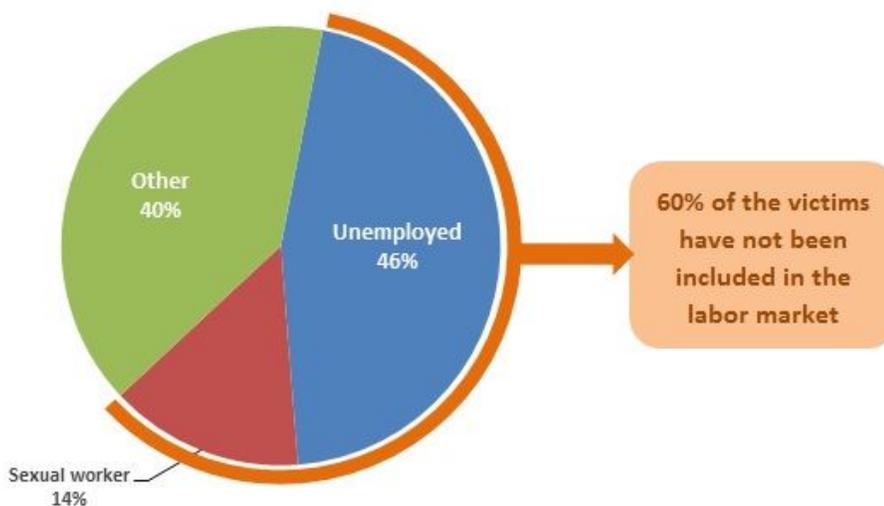
<sup>74</sup> Constitution of the Republic of El Salvador, article 2.

<sup>75</sup> Constitution of the Republic of El Salvador, article 3.

<sup>76</sup> Executive Decree No. 56, “Provisions to avoid all forms of discrimination at the public administration due to gender identity and/or sexual orientation” (“Disposiciones para evitar toda forma de discriminación en la administración pública por razones de identidad de género y/u orientación sexual”) (2010). Available at: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/86392/97471/F1174021459/SLV86392.pdf>

<sup>77</sup> Inter-American Commission on Human Rights (IACHR), Public Hearings: Reports of Violence against Trans People in El Salvador, 149th regular session, 30 October 2013 (watch minute 33:12). Available at: <https://www.youtube.com/watch?v=481oU6ZUnFA>.

**Chart 4.** Occupation of the victim.



111. One complaint that makes reference to the infringement of the access to work is the case of U., a trans woman who was a victim of bullying and workplace harassment when she worked for a company. When U. started socializing her gender expression, her supervisors “suggested” she should not continue with the process. This caused a hostile and an uncomfortable work environment. After suffering harassment and psychological violence she was dismissed from the company without notice.
112. Another surveyed case is that of J.B., a trans woman who worked as a promoter of GANA political party. J.B. told us that her work group was composed of male members, who discriminated her daily for her gender identity. The hostility increased until she was dismissed for being a trans woman. She was told that her gender expression and identity “gave a poor image” to the political party.
113. K., a trans woman who had set up her own business, had another complaint. She informed that she had opened a restaurant near a police station assuming she would be more protected. Ever since she opened her restaurant, she received telephone jokes and threats on a daily basis from members of gangs that were arrested at said police station. These calls were motivated by her gender identity and expression. Finally, K. had to close her business down fearing physical aggressions.

## H. The right to participate in political life

114. Every citizen has the right and the obligation to vote and thus participate in public affairs in El Salvador. Likewise, they have the right to stand for office and the duty to comply and make

sure others abide by the local Constitution.<sup>78</sup> However, if the vote is the base to exercise civic power, it is extremely concerning that many trans women are still prevented from voting.

115. Given that trans persons do not have the legal recognition of their gender identity in their identification cards, when they try to vote they have to do so at the tables distributed according to their registration sex. Therefore, they are exposed to practical difficulties and violent and hostile situations.
116. In connection to this problem, many trans women complained that they have suffered acts of discrimination or violence based on their gender identity when they tried to exercise their right to vote. I. informed that when she went to vote she received discriminatory remarks on her gender identity. When she asked for some respect, the people at the place expelled her from the place with physical aggression and prevented her from voting.

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<sup>78</sup> Constitution of the Republic of El Salvador, article 72.

## 4. SITUATION IN GUATEMALA

### A. The right to equality and non-discrimination

117. The Political Constitution of Guatemala enshrines the principle of non-discrimination in article 4 without explicitly mentioning gender identity as a prohibited ground for discrimination.<sup>79</sup> For its part, the Penal Code of Guatemala criminalizes “discrimination” without expressly providing for gender identity.<sup>80</sup> In general terms, there is no legal framework in Guatemala that offers protection to trans persons against the discrimination and the violence they are subjected to.
118. It must be particularly taken into account that the IACHR has emphasized that the States “must expressly include ‘gender identity’ as grounds for protection in legislation and in public policies.”<sup>81</sup> In this regard, the Commission has given consideration to the arguments of some of the States in the sense that the protection to trans persons may derive from the terms “sex” or “gender” included in the text of some legal regulations. Even so, the IACHR has expressed that “while a progressive interpretation by analogy and the use of open clauses may be useful tools for the interpretation of laws and regulations, the IACHR recommends the term ‘gender identity’ be expressly included for greater legal certainty and visibility.”<sup>82</sup>
119. Further, in the international level, Guatemala has always been reluctant to join regional instruments by general agreement that address the rights of LGBT persons. In this sense, REDLACTRANS and OTRANS-RN regret that Guatemala made the only reservation to “Montevideo consensus on population and development”, in which Guatemala states that “the concept of ‘gender’, which is interpreted as meaning only the female gender and male gender in reference to women and men”, and reservations are expressed as regards “the interpretation of the expression ‘sexually diverse groups’, ‘sexual orientation’ and ‘sexual diversity and gender identity.’”<sup>83</sup> This reservation is without doubt an obstacle to the implementation at the domestic level of the commitments that arise from this instrument and an opportunity that Guatemala lost to ensure equality before the law of every person without discrimination. Accordingly, it is concerning that Guatemala has not neither signed nor ratified the Inter-American Convention against all Forms of Discrimination and Intolerance,

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<sup>79</sup> Political Constitution of Guatemala, Article 4. Available at:

<http://www.ine.gob.gt/archivos/informacionpublica/ConstitucionPolitica dela Republica de Guatemala.pdf>

<sup>80</sup> Penal Code of Guatemala, Decree Number 17-73, S. 202bis. Available at:

<http://www.oj.gob.gt/es/QueEsOJ/EstructuraOJ/UnidadesAdministrativas/CentroAnalisisDocumentacionJudicial/lex/CodigoPenal.htm>.

<sup>81</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 413.

<sup>82</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 413.

<sup>83</sup> First session of the Regional Conference on Population and Development in Latin America and the Caribbean, Montevideo Consensus on Population and Development, LC/L.3697, 5 September 2013, Appendix 1: Reservation presented by the delegation of Guatemala, p.31. Available at:

[http://www.cepal.org/celade/noticias/documentosdetrabajo/9/50709/2013-596-montevideo\\_consensus\\_pyd.pdf](http://www.cepal.org/celade/noticias/documentosdetrabajo/9/50709/2013-596-montevideo_consensus_pyd.pdf)

which is open to signature and ratification by all member States of the Organization of American States (hereinafter, "OAS") which expressly includes "gender identity" and "gender expression" as prohibited grounds for discrimination.<sup>84</sup>

120. In 2012, the United Nations Human Rights Committee expressed its concern "at the discrimination and violence suffered by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons" in Guatemala, pointing out that the State "should state clearly and officially that it does not tolerate any form of social stigmatization of homosexuality, bisexuality or transexuality, or harassment of or discrimination or violence against persons because of their sexual orientation or gender identity."<sup>85</sup> Such unequivocal statement by the State is still pending.
121. As regards the inequalities that trans women face from an early age, REDLACTRANS was able to see that **85%** of the victims from the cases surveyed are under 35 years old, and that **33%** of the total of the victims are in the age range between 18 and 24 (chart 1). These figures are consistent with a reality that has been documented previously by REDLACTRANS<sup>86</sup> and the IACHR<sup>87</sup> as regards the young age trans women are victims of violations of their rights.

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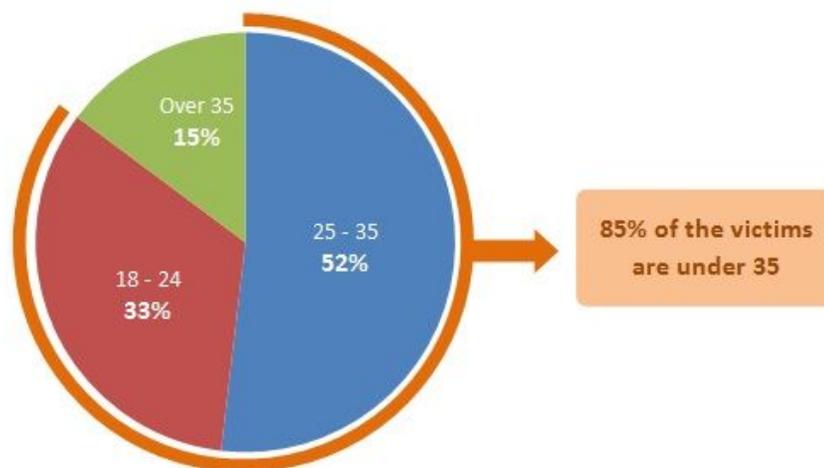
<sup>84</sup> See, Inter-American Convention against all Forms of Discrimination and Intolerance, adopted on 5 June 2013, article 1 [at the time of writing this report this convention has not come into force yet].

<sup>85</sup> Concluding observations of the Human Rights Committee: Guatemala, CCPR/C/GTM/CO/3, 19 April 2012, para. 11.

<sup>86</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 26; REDLACTRANS, *La transfobia en America Latina y el Caribe: un estudio en el marco de REDLACTRANS*, [Transphobia in Latin America and the Caribbean: a study in the framework of REDLACTRANS.] 2009, p. 54.

<sup>87</sup> Inter-American Commission on Human Rights (IACHR), Press Release 153/14 "An Overview of Violence against LGBTI Persons in the Americas: a Registry Documenting Acts of Violence between January 1, 2013 and March 31, 2014." 17 December 2014. Available at (in Spanish): <http://www.oas.org/es/cidh/lgtbi/docs/Anexo-Registro-Violencia-LGBTI.pdf>; Inter-American Commission on Human Rights (IACHR), *Violence against LGBTI Persons*, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 276.

**Chart 1.** Age group of the victims.



## B. The right to gender identity

122. REDLACTRANS and OTRANS-RN express their concern about the absence to this day of a gender identity law that ensures the right of every trans person to modify their name (first name) rectifying it in the registration documents (birth certificate, identity card) through a simple procedure that does not involve elements of stigmatization and discrimination.
123. The member organizations of the network REDLACTRANS claim that the lack of legal recognition that trans persons have suffered for years is one of the main reasons that explain why our basic needs are not met and we have also suffered constant situations of exclusion, marginalization and discrimination.
124. REDLACTRANS has already stated that the lack of recognition of the right to gender identity and the impossibility of accessing identification documents that reflect their gender identity “keep trans women invisible in the official records and systems.”<sup>88</sup> For this reason, despite its high rate of frequency, it is difficult to define precisely the scope of human rights violations against trans women in Latin America due to the lack of specific information about this population.<sup>89</sup> Likewise, the recognition of the right to freely exercise gender identity is fundamental to access economic, social and cultural rights.<sup>90</sup> In effect, the fact of bearing documentation that does not reflect their gender identity puts trans women in a serious vulnerable situation preventing the access to basic human rights such as the right to education, work, health, and housing, among others. In this sense, a gender identity law is

<sup>88</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>89</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>90</sup> REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.11.

perceived by trans persons themselves as a way of countering this historic lack of the full exercise of citizenship.

125. National organizations in other countries of America have documented local experiences after the enactment of a gender identity law, showing that while a law does not automatically eliminate all the factors that contribute to the situation of vulnerability of trans persons, its adoption and implementation caused a noticeably positive impact on the access to rights, life conditions and quality of life of trans persons.<sup>91</sup>
126. Finally, it is important to highlight in this regard that the Inter-American Commission congratulated enthusiastically for the adoption of decrees that ensure the right to gender identity in Mexico City and Colombia, pointing out that in these jurisdictions, the amendment in the registration can be made through “simple administrative procedures”, without requirements that pathologize trans persons.<sup>92</sup>

### C. The right to life and personal integrity

127. The fundamental rule of the legal structure of Guatemala sets forth the obligations the State has towards its inhabitants as regards ensuring the right to life, liberty, justice, security, peace, and the integral development of the person.<sup>93</sup> It also sets forth the rights to life,<sup>94</sup> to liberty and equality<sup>95</sup> and freedom of action.<sup>96</sup> Likewise, Guatemala has undertaken the obligation to respect and ensure these rights by means of the ratification of different treaties and international covenants in the area of human rights.<sup>97</sup>
128. It is worth mentioning that in 2008, Guatemala accepted two recommendations in the framework of the Universal Periodic Review, whereby the State undertook the commitment to

put an end to impunity for reported attacks against members of marginalized communities, including on the grounds of sexual orientation and gender identity, as well as to put in

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<sup>91</sup> See: Fundación Huésped, Asociación de Travestis, Transexuales y Transgéneros de Argentina (ATTA), Ley de identidad de género y acceso al cuidado de la salud de las personas trans en Argentina, [Gender identity Law and access to health care of trans persons in Argentina.] 2014. Available in Spanish at: <http://redlactrans.org.ar/site/wp-content/uploads/2014/01/leyGeneroTrans.pdf>.

<sup>92</sup> IACHR, Press Release 75/15: IACHR Congratulates Mexico and Colombia for Measures Recognizing Identity of Trans Persons, 1 July 2015. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2015/075.asp](http://www.oas.org/en/iachr/media_center/PReleases/2015/075.asp)

<sup>93</sup> Political Constitution of the Republic of Guatemala, Article 1.

<sup>94</sup> Political Constitution of the Republic of Guatemala, Article 2.

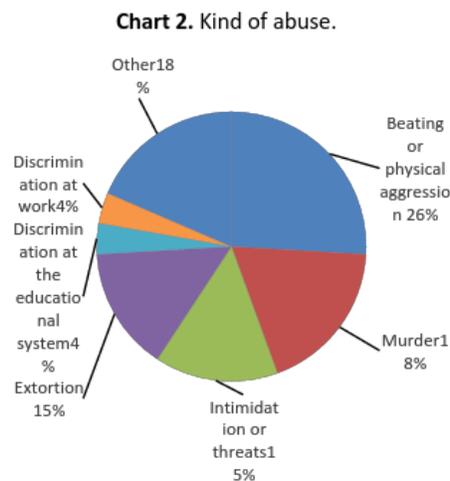
<sup>95</sup> Political Constitution of the Republic of Guatemala, Article 3.

<sup>96</sup> Political Constitution of the Republic of Guatemala, Article 4.

<sup>97</sup> As an example, it is worth mentioning the American Convention on Human Rights, the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights "Protocol of San Salvador", the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, among others.

operation awareness-raising efforts in that respect, targeted particularly at law enforcement officials and the judiciary.<sup>98</sup>

129. While said commitment was undertaken more than 8 years ago, we cannot see significant changes in the reality that trans persons must live in Guatemala.
130. Among the received complaints during the project of documentation carried out by REDLACTRANS and OTRANS-RN, we have received a considerable number of cases that involve high levels of violence. In effect, 44% of the cases were murders and beatings (chart 2).



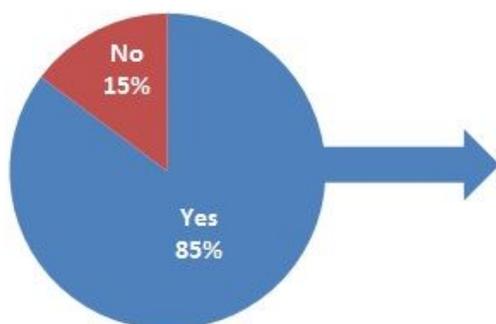
131. Firstly, we have received different complaints of murders as a result of firearms from moving cars. One of them is the case of S., a trans sexual worker. According to the witnesses, a car approached S. and fired with a gun. However, instead of escaping, the driver sped up to her in order to run her over and make sure that she was dead.
132. In addition, homicides and assaults by gangs and criminal bands are frequent among the received cases. For instance, G. a trans sexual worker was attacked by a gang, who approached, hit her and stoned her until they confirmed she was dead. Another case is that of J., a trans woman who also did sex work. According to what her colleagues informed, J. was constantly bullied and harassed in her working area by a cisgender gang of women that frequently hit her and stole her belongings. Tired of these aggressions, she decided to make a complaint to the police. Despite this, one night while she was working, she was stabbed five times which caused her death.
133. According to the information we have received, it is frequent that trans women who are sexual workers appear murdered after getting on cars of clients. This was the case of D. who

<sup>98</sup> Report of the Working Group on the Universal Periodic Review: Guatemala, A/HRC/8/38, 29 May 2008, paras. 89.35 and 89.36. See also: UPR-info.org, Responses to Recommendations: Guatemala, Review in the Working Group: 6 May 2008, Adoption in the Plenary: 11 June 2008, p. 4.

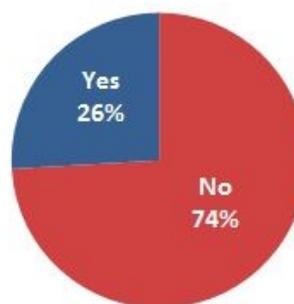
one night got on a van in which there were four men. No one knew anything about her until her body appeared mutilated and with serious signs of torture the following day.

134. It is worth mentioning that in 2012 the Inter-American Commission on Human Rights expressed its concern over the crimes committed and the violence against the trans community in Guatemala, as well as the lack of investigation and the absence of methodologies to keep records on these types of crimes.<sup>99</sup> In this sense, during the collection of the complaints we received information about physical aggressions that while they do not mean the death of the victim, they are still concerning due to their brutality and savagery.
135. In 2012, the Human Rights Committee urged the State of Guatemala that its security forces ensure the investigation, prosecution and punishment of any act of discrimination or violence motivated by the victim's sexual orientation or gender identity.<sup>100</sup> Nevertheless, this recommendation still remains as an ideal that has not been put into concrete changes in the Guatemalan reality. In effect, while there are a big number of filed complaints, only 26% have had any kind of answer by the authorities (charts 4 and 5). State agents, and particularly those who belong to the security forces have a considerable ignorance on sexual diversity and human rights due to the lack of training and the absence of public policies that integrate in a comprehensive way the discrimination and the stigma motivated by gender identity and expression.

**Chart 4.** Was a complaint filed after the aggression?



**Chart 5.** Did you have an answer to the filed complaint?



136. This impunity allows the occurrence and repetition of cases such as the one of F., who informed that one day while she was on the public road walking with other trans women was suddenly physically assaulted by a man who was driving a motorcycle. This man hit her head with his helmet and in her breast implants, spat at her and verbally assaulted her making reference to her gender identity and expression. Her friends asked for help to some agents of

<sup>99</sup> Inter-American Commission on Human Rights. Annex to Press Release 134/12 on the 146th Regular Session of the IACHR. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2012/134A.asp](http://www.oas.org/en/iachr/media_center/PReleases/2012/134A.asp).

<sup>100</sup> Concluding observations of the Human Rights Committee: Guatemala, CCPR/C/GTM/CO/3, 19 April 2012, para. 11.

the National Civil Police that were nearby. Inexplicably, the officers arrested the trans women and told the aggressor to make a complaint against them.

137. Similarly, I. a trans sexual worker complained about another abuse of power by a police officer. I. informed that one night she provided sexual services to a client who eventually identified himself as a “police officer wearing civilian clothes” and refused to pay for her services. After that, I. demanded for payment and as a consequence she was arrested and taken to a local police station of the capital. I. was not only a victim of an arbitrary detention but received a severe beating by police officers that destroyed her nose as well. As a consequence of the beating, she could not do sex work so; she lost the only source of income that she had been able to find.
138. Trans women that advocate for human rights have also been victims of violence, threats and harassment due to their work. In this regard, the IACHR has established that the members of the organizations that promote and advocate for the rights of LGBTI persons “have a fundamental role in the region (...) to ensure the compliance of the obligations of the State and in general, in the process of promoting equality for LGBTI persons.”<sup>101</sup> An example of this kind of cases is that of O., a trans human rights advocate who was assaulted by a neighbor of the offices of the organization she works for. In her complaint she said that a man approached her on a motorcycle and started to verbally assault her and then tried to run her over with the vehicle. As he failed to do so, he got down of the motorcycle and started to hit her until O. managed to escape. The aggressor never stopped insulting her and verbally assaulting her on her gender identity and expression.
139. M.L. complained that she received daily threats for being a trans woman who advocates for human rights. She mentioned that her work became visible in the neighborhood and that exposed her to be the target of threats and physical aggressions. The biggest aggression she received was one night while she was driving her car around the city and stopped at the traffic lights. Suddenly, a man wearing a hood got on her car and started to insult her, hit her hard and to threaten to kill her. The trans activist defended herself as she could until she finally managed to push him out of her car. While she could not identify the aggressor, she fears for her life as she affirms that there is no legal framework to protect her.
140. Further, the offices of OTRANS-RN had been broken into by unknown people. On another occasion, a man entered the offices, inspected and disorganized the documentation that was there and then left without stealing anything.

## **D. Institutional violence**

141. One of the factors that cause deep concern among the organizations that belong to the network REDLACTRANS is the validity of dispositions that make reference to “public morals”, “decency” or “public scandal” which are used discretionally and arbitrarily by police officers

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<sup>101</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 333.

as a persecution tool against trans women, particularly those who are in the sex work. These regulations, which are formulated in vague and ambiguous terms, are used as the basis for arbitrary detentions, expulsion from public areas and the imposition of fines, at the same time generating scenarios where other violations and abuses take place such as, physical, sexual and psychological aggressions. These kinds of regulations have also been a cause for concern among different international human rights protection organizations such as the Human Rights Committee,<sup>102</sup> the Committee against Torture,<sup>103</sup> and the IACHR.<sup>104</sup>

142. In the particular case of Guatemala, the Penal Code sets forth in section 489 the “offences against morals.”<sup>105</sup> In fact, there is a pattern that appears in the complaints for intimidation or threats perpetrated by security agents. There are many cases in which trans women are threatened by police officers to arrest them due to their gender identity, because they are “men dressed as women.” This was the case of Y. who was a victim of abuse and police harassment on a daily basis. On one occasion the National Civil Police arbitrarily deprived of her liberty on her gender expression and identity when she was in a shopping center.
143. M.R. submitted her complaint before the registry of REDLACTRANS explaining that she was assaulted due to her gender identity and expression in the public road in broad daylight. She said that she was walking along the street with her mother and her brother when she met a Catholic procession. As they identified her, the participants of the procession started to insult her and spit at her. The number of aggressors increased, so she had to run away immediately. The violence did not stop there, many of the aggressors identified her and continued to harass her by means of threatening telephone calls and cyber bullying in the social networks.

## E. The right to education

144. In Guatemala, the right to education is enshrined in article 71 of the Political Constitution. The Constitution sets forth that it is obligation of the State to provide and facilitate education to its inhabitants without any discrimination.<sup>106</sup> In addition, article 74 sets forth that the inhabitants have the right and obligation to receive early, pre-primary, primary and basic education within the age limits set by the law.<sup>107</sup>
145. While the articles of the Constitution enshrine the complete access to education “without any discrimination”, there are no regulations that take into consideration explicitly the discrimination based on gender identity in the educational area. In effect, the law of educational promotion against discrimination, enacted in Guatemala in 2002, establishes

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<sup>102</sup> Concluding observations of the Human Rights Committee: El Salvador, CCPR/CO/78/SLV, 22 August 2003, para. 16.

<sup>103</sup> Conclusions of the Committee against Torture: Costa Rica, CAT/C/CRI/CO/2, 7 July 2008, para. 11.

<sup>104</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para.86.

<sup>105</sup> Penal Code of Guatemala, Decree Number 17-73, S. 489. Available at:

<http://www.oj.gob.gt/es/QueEsOJ/EstructuraOJ/UnidadesAdministrativas/CentroAnalisisDocumentacionJudicial/lex/CodigoPenal.htm>.

<sup>106</sup> Political Constitution of the Republic of Guatemala, Article 71.

<sup>107</sup> Political Constitution of the Republic of Guatemala, Article 74.

expressly only ethnic or racial and gender discrimination without including gender identity as a prohibited ground for discrimination.<sup>108</sup> As regards the Ministerial Agreement 01/2011 issued by the Ministry of Education, the situation is the same, this agreement prohibits discrimination in the educational area on grounds of sex, race, age, state of pregnancy or disability.<sup>109</sup>

146. Likewise, UNESCO has given relevance that the material devised by the Ministry of Education of Guatemala to combat school bullying does not mention nor address the problem of discrimination due to gender identity, which “constitutes a form of exclusion.”<sup>110</sup> In addition, as it was documented in that report sexual diversity is not discussed at Guatemalan schools given that this topic has been excluded from the school curriculum.<sup>111</sup>
147. In this restrictive framework, there have been many cases of restrictions to the access to educational services motivated by the gender identity of the victims. This was the case of U., a trans woman who had taken the decision to leave sex work. As she did not have the opportunity to complete her secondary education, she tried to take a course on technical-industrial design of clothing at the Technical Institute of Professional Training (INTECAP). When she went to register, she was told that she could not take it because the “course was for men and women” and that she “did not apply.”
148. The collected information also shows concerning data: **58%** of the complainants have not finished primary education and only 27% could finish secondary school (chart 7). The organizations that take part in this project consider a matter of utmost urgency that the authorities of Guatemala take measures to ensure the right to education to the trans community, allowing them to have access to the opportunities that such right generates.

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<sup>108</sup> Law of educational promotion against discrimination, (Ley de promoción educativa contra la discriminación) Decree No. 81-2002, 28 November 2002. Available at:

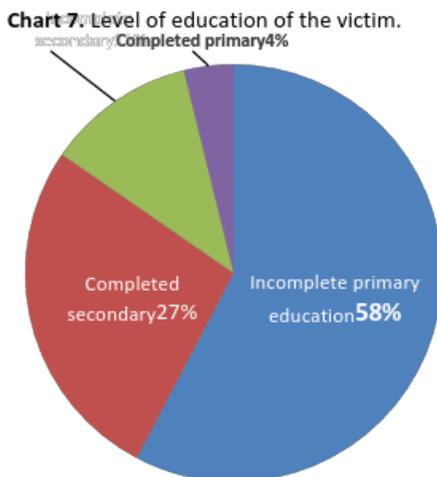
<http://www.oj.gob.gt/es/QueEsOJ/EstructuraOJ/UnidadesAdministrativas/CentroAnálisisDocumentaciónJudicial/cds/CDs%20leyes/2003/Leyes%20en%20PDF/Otras%20Leyes/Decreto%2081-2002.pdf>.

<sup>109</sup> Ministry of Education of Guatemala, Ministerial Agreement 01-2011, 3 January 2011, s. 219. Available at :

[http://www.mineduc.gob.gt/portal/contenido/menu\\_lateral/leyes\\_y\\_acuerdos/leyes\\_educativas/documents/2011%2001-2011%20AM%20Normativa%20de%20convivencia%20pac%C3%ADfica%20y%20disciplina.pdf](http://www.mineduc.gob.gt/portal/contenido/menu_lateral/leyes_y_acuerdos/leyes_educativas/documents/2011%2001-2011%20AM%20Normativa%20de%20convivencia%20pac%C3%ADfica%20y%20disciplina.pdf)

<sup>110</sup> Carlos F. Cáceres y Ximena Salazar (eds.), “Era como ir todos los días al matadero...”: El bullying homofóbico en instituciones públicas de Chile, Guatemala y Perú. [It was like going to slaughterhouse...: Homophobic bullying at public institutions in Chile, Guatemala and Peru.] Working document. Edited by Carlos F. Cáceres and Ximena Salazar (Lima: IESSDEH, UPCH, UNPD, UNESCO, 2013), p. 11.

<sup>111</sup> Carlos F. Cáceres y Ximena Salazar (eds.), “Era como ir todos los días al matadero...”: El bullying homofóbico en instituciones públicas de Chile, Guatemala y Perú. [It was like going to slaughterhouse...: Homophobic bullying at public institutions in Chile, Guatemala and Peru.] Working document. Edited by Carlos F. Cáceres and Ximena Salazar (Lima: IESSDEH, UPCH, UNPD, UNESCO, 2013), p. 17.



## F. Persons deprived of their liberty

149. The Political Constitution of Guatemala expresses that the objectives of detention facilities are to “rehabilitate socially” and to “re-educate the prisoners.” To this effect, as regards the treatment and the current system, the following safeguards every person who is deprived of his/her liberty are highlighted:

- a. They must be treated as human beings; they must not be discriminated for any reason whatsoever nor have cruel treatment, physical, moral, psychic torture, duress or harassment, be inflicted on them, nor can they be made to perform work incompatible with their physical condition, actions undermining their dignity, or be subjected to extortion or scientific experimentation;
- b. They must serve their sentence in places designated for that purpose. The penal centers must be civilian and have specialized personnel; and
- c. They are entitled to communicate, when they so request, with their kin, defense lawyer, religious counselor or physician, and where applicable, with the diplomatic or consular representative of their own nationality.<sup>112</sup>

150. However, the situation of trans persons in Guatemala has been a reason for concern by the IACHR,<sup>113</sup> a situation that is verified in the collected information by the organizations that take part in this project. In fact, in contrast to the legal framework described, a particularity arises from the information gathered about the violations of rights that trans women who are

<sup>112</sup> Political Constitution of the Republic of Guatemala, Article 19.

<sup>113</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 145.

deprived of their liberty, these violations are systematical and committed, principally, by public officials.

151. As informed by the complainants, there are many cases in which they are forced to cut their hair and to use clothing associated to the male gender to assume their “natural gender.” They are also forced to perform degrading actions such as exercises unclothed and out in the open as humiliation methods.
152. Further, we have received complaints from advocates of the rights of trans women who are deprived of their liberty about facts that have an impact on the possibilities to ensure their rights. In effect, P.R. a trans woman who worked as an advisor at the General Directorate of the Prisons System was dismissed as a consequence of having denounced a series of violations suffered by trans persons in prison. Her complaints included physical aggressions, sexual abuses, tortures, cruel, inhuman or degrading treatment. That is why R. affirms that her dismissal sought hiding the serious situation that the trans persons deprived of their liberty are facing in Guatemala, strengthening their lack of protection and vulnerability.

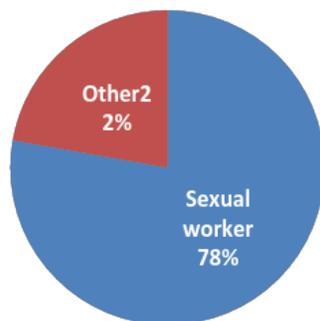
### **G. The right to work**

153. The Guatemalan constitutional framework includes the right to work as a right of every person and a “social obligation of the State.”<sup>114</sup>
154. To address the employment situation of trans persons in Guatemala it must be borne that **73%** of the trans women who complained have not completed their secondary education. This shows that trans persons are excluded from the educational system and therefore, lack the experience and development of the necessary skills to enter the labor market. In addition, many trans women informed they could not access employment exclusively based on their gender identity.
155. The difficulty to access work has forced many trans women to do sex work. In fact, almost **80%** of the complainants pointed out they did sex work in order to survive. Sex work provides them with an income and a means of subsistence but exposes them to contexts of lack of legal and police protection. In fact, all the cases of murders that were informed during this project were of trans sexual workers. Besides, none of the homicides have an arrested or convicted responsible, even when in all cases there were formal complaints.

**Chart 2.** Occupation of the victim.

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<sup>114</sup> Political Constitution of the Republic of Guatemala, Article 101.



156. Another factor that clearly worsens the vulnerability of trans women to incorporate them to the system of formal employment is the discrimination and the stigma they suffer in many other social areas. For example, M. described how the National Civil Police prevented her from joining a job due to the ignorance and ingrained prejudices in the security forces. M. was a sexual worker and she worked as a contributor at a non-governmental organization. In fact, she had the opportunity to be formally hired which would allow her to abandon sex work. One of the requirements was a police clearance. When she went to the police station to ask for such clearance, the officers told her, among laughter and mockery, her file was missing and they could not issue the clearance. As a result, she could not work for the organization and had to do sex work in order to survive.
157. The case of U. shows the delicate situation of trans women to keep their sources of income. U. works as a hairstylist. She had a lot of difficulties to open her business because a lot of clients prejudged her services since she was a trans woman. In addition to this, due to a rent debt she had, she received the debt collector. U. told him that she had an agreement with the owner of the premises. However, the debt collector, violently and without taking into account what U. had told him, started to wallpaper the premises with notices that said “debtor” while she was insulted on her gender identity and expression. This brought economic losses as it worsened the prejudice the neighborhood had against her.
158. Another complaint about social exclusion and the vulnerability of economic, social and cultural rights of trans persons was made by X. who lives on the streets. She is daily discriminated and stigmatized by the community in general. One day, after she got some money, she went to a fast food restaurant and ordered a burger. Suddenly and without warning, she was violently taken out of the premises while she was shouted at that it was not a place for “huecos” (a derogatory expression used in Guatemala to refer to homosexuals.)

159. Thus, Guatemala has great difficulties to comply with the commitments undertaken to ensure that everyone has the opportunity to gain his/her living by work which s/he freely chooses or accepts,<sup>115</sup> without discrimination of any other social condition.<sup>116</sup>

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<sup>115</sup> International Covenant on Economic, Social and Cultural Rights. Art. 6. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>116</sup> Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights. Art. 3. Available at: <http://www.oas.org/juridico/english/treaties/a-52.html>

## 5. SITUATION IN HONDURAS

### A. The right to equality and non-discrimination

160. REDLACTRANS and Colectivo Unidad Color Rosa congratulate the fact that Honduras is one of the very few States in the region that has advanced to the express incorporation of gender identity in the legislation against discrimination. In effect, the Penal Code punishes the “crime of discrimination” in section 321 providing for gender identity as one of the prohibited grounds for discrimination.<sup>117</sup>
161. While this is an advance of significance, REDLACTRANS considers that this measure is far from being enough to reduce or prevent violence against trans women. This regulatory progress must be accompanied by the implementation of public policies that train all judicial officials and the security forces on human rights and the rights of trans persons, how to implement this legislation against discrimination and how to prevent violence and discrimination against trans persons. Likewise, judges, advocates and prosecutors should be familiarized with the regulations, apply them every time they are faced with a case of discrimination based on gender identity, know how to identify elements that may indicate the presence of hate or prejudice against trans persons and rigorously enforce them.
162. Furthermore, the punishment of the crime of discrimination should be accompanied by other regulations outside the penal area that prevent discrimination and foster the inclusion of trans persons in other areas such as education, work or public health.

### B. The right to gender identity

163. REDLACTRANS and Colectivo Unidad Color Rosa express their concern about the absence of a gender identity law in Honduras that ensures the right of every trans person to rectify their registration documents through a simple procedure that does not pathologize trans persons.
164. The member organizations of the network REDLACTRANS claim that the lack of legal recognition that trans persons have suffered for years is one of the main reasons that explain why our basic needs are not met and we have also suffered constant situations of exclusion, marginalization and discrimination. REDLACTRANS has already stated that the lack of recognition of the right to gender identity and the impossibility of accessing identification documents that reflect their gender identity “keep trans women invisible in the official records and systems.”<sup>118</sup> For this reason, despite its high rate of frequency, it is difficult to define precisely the scope of human rights violations against trans women in Latin America due to the lack of specific information about this population.<sup>119</sup> Likewise, the recognition of

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<sup>117</sup> Penal Code of Honduras. S. 321 (text amended by Decree No. 23-2013). Available at: <http://www.refworld.org/pdfid/46d7cebe2.pdf>

<sup>118</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>119</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

the right to freely exercise gender identity is fundamental to access economic, social and cultural rights.<sup>120</sup> In effect, the fact of bearing documentation that does not reflect their gender identity puts trans women in a serious vulnerable situation preventing the access to basic human rights such as the right to education, work, health, and housing, among others. In this sense, a gender identity law is perceived by trans persons themselves as a way of countering this historic lack of the full exercise of citizenship.

165. National organizations in other countries of America have documented local experiences after the enactment of a gender identity law, showing that while a law does not automatically eliminate all the factors that contribute to the situation of vulnerability of trans persons, its adoption and implementation caused a noticeably positive impact on the access to rights, life conditions and quality of life of trans persons.<sup>121</sup>
166. Finally, it is important to highlight in this regard that the Inter-American Commission congratulated enthusiastically for the adoption of decrees that ensure the right to gender identity in Mexico City and Colombia, pointing out that in these jurisdictions, the amendment in the registration can be made through “simple administrative procedures”, without requirements that pathologize trans persons.<sup>122</sup>

### C. The right to life

167. The Constitution of Honduras sets forth that the right to life, individual safety, freedom and equality before the law, are inviolable<sup>123</sup> and also indicates that every person is free and equal before the law. In line with the fundamental rule, the Honduran State has ratified different international human rights treaties and covenants undertaking the commitment to respect and monitor human rights that clearly include the rights of trans persons.<sup>124</sup>
168. As regards international instruments on the topic, it is regrettable that Honduras has not signed nor ratified yet the Inter-American Convention against all Forms of Discrimination and Intolerance,<sup>125</sup> whereby the States undertake to prevent, eliminate, prohibit, and punish, all

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<sup>120</sup> REDLACTRANS, Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean. 2014, p.11.

<sup>121</sup> See: Fundación Huésped, Asociación de Travestis, Transexuales y Transgéneros de Argentina (ATTTA), Ley de identidad de género y acceso al cuidado de la salud de las personas trans en Argentina, [Gender identity Law and access to health care of trans persons in Argentina.] 2014. Available in Spanish at: <http://redlactrans.org.ar/site/wp-content/uploads/2014/01/leyGeneroTrans.pdf>.

<sup>122</sup> IACHR, Press Release 75/15: IACHR Congratulates Mexico and Colombia for Measures Recognizing Identity of Trans Persons, 1 July 2015. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2015/075.asp](http://www.oas.org/en/iachr/media_center/PReleases/2015/075.asp)

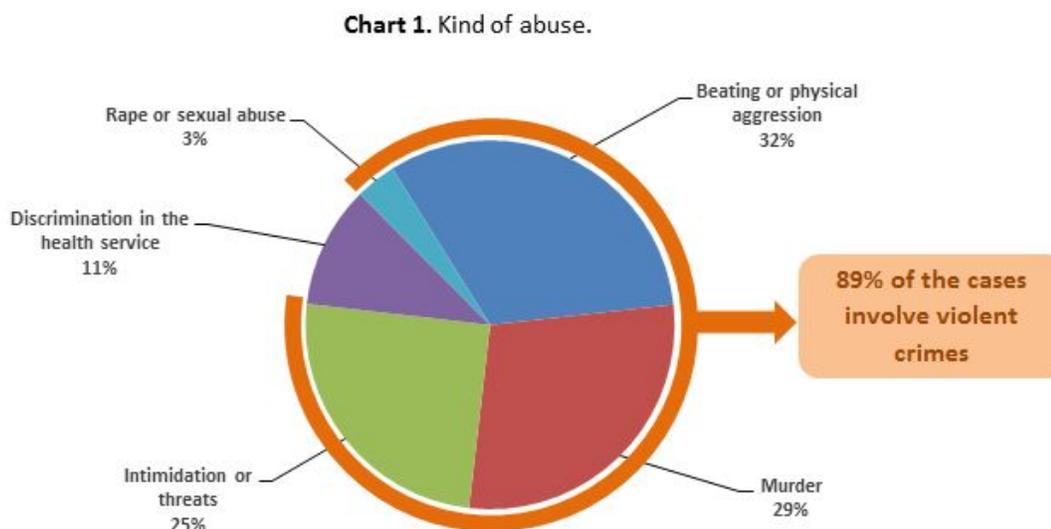
<sup>123</sup> Constitution of the Republic of Honduras, article 61. Available at: <http://www.poderjudicial.gob.hn/CEDIJ/Leyes/Documents/ConstitucionRepublicaHonduras.pdf>

<sup>124</sup> As an example, it is worth mentioning the American Convention on Human Rights, the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights "Protocol of San Salvador", the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, among others.

<sup>125</sup> See, Inter-American Convention against all Forms of Discrimination and Intolerance, adopted on 5 June 2013, article 1 [at the time of writing this report this convention has not come into force yet].

acts and manifestations of discrimination and intolerance, including the express provision of those committed based on the sexual orientation and the gender identity or expression of the victim.

169. However, during the project of systematization of complaints of human rights violations of trans persons, we have noted a great number of physical aggressions, acts of torture, threats, among others, perpetrated with extreme violence and cruelty. In fact, the threats, the serious events of violence and the murders of members of the trans community in Honduras have motivated the IACHR to express its concern on many occasions.<sup>126</sup> Furthermore, since 2002 and the subsequent years, different Special Procedures of the Universal System have closely followed the violence suffered by trans women in Honduras and the murders of trans sexual workers in Honduras.<sup>127</sup>
170. The situation of violence that the trans community is exposed is reflected in the statistics of the complaints collected. We found out that **89%** of the cases involve violent crimes, such as murders, rape and sexual abuses, physical aggressions, harassment and hate speech (chart 1).



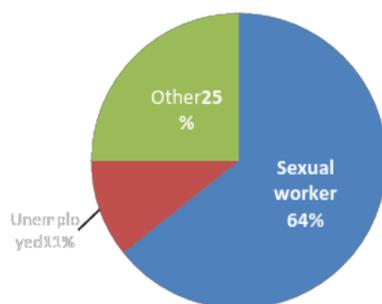
171. As it was previously documented by REDLACTRANS, as a direct consequence of the structural social exclusion that trans women are subjected to, the lack of educational opportunities, the early expulsion from their homes and the impossibility to have identity documents that

<sup>126</sup> As an example: Inter-American Commission on Human Rights (IACHR), Press Release 4/11: "IACHR Deeply Concerned about Murders of Members of Transgender Community in Honduras", 20 January 2011. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2011/004.asp](http://www.oas.org/en/iachr/media_center/PReleases/2011/004.asp); Press Release 109/12: "IACHR Condemns the Murder of a Trans Woman in Honduras", 28 August 2012. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2012/109.asp](http://www.oas.org/en/iachr/media_center/PReleases/2012/109.asp)

<sup>127</sup> Report of the Special Rapporteur, Ms. Asma Jahangir, to the Commission on Human Rights on extrajudicial, summary or arbitrary executions, E/CN.4/2003/3/Add.2, 14 June 2002, para. 68; Report of the Special Rapporteur, YakinErtürk, on violence against women, its causes and consequences, E/CN.4/2005/72/Add.1., 18 March 2005, para. 180.

reflect their gender identity, among other reasons, trans women resort to sex work in the streets as a survival alternative.<sup>128</sup> In fact, 64% of trans women who complained said they did sex work in order to survive (chart 2). In the case of Honduras, sex work is not illegal but the Police and Social Coexistence Law,<sup>129</sup> grants police officers a discretionary power that leads to abuses and arbitrary detentions of trans persons, especially those who do sex work.

**Chart 2.** Occupation of the victim.



172. Furthermore, the data that arise from the survey in Honduras are in line with what REDLACTRANS has documented throughout the last few years in different countries of the region regarding the extreme vulnerability of the trans women that do sex work,<sup>130</sup> who are also exponentially more exposed to be victims of crimes and abuses by police forces. Further, those who do sex work do so mostly at night in insecure and dark areas, which expose them to situations of greater risk and at the same time worsens their situation of vulnerability and social exclusion. It is of significance that all the registered homicides – except one- were committed against trans sexual workers.
173. As regards the registered murders, it causes great concern that the complaints on many cases of trans women who were murdered and, by complicity or inexperience of the police, without any registry or identification, their bodies were buried in mass graves.
174. Another complaint informed the case of G., a trans sexual worker, who was kidnapped during her working hours. After being missing for a whole night, her body was found in a nearby

<sup>128</sup> REDLACTRANS, *La transfobia en America Latina y el Caribe: un estudio en el marco de REDLACTRANS*, [Transphobia in Latin America and the Caribbean: a study in the framework of REDLACTRANS.] 2009, p. 44. Likewise, see: Inter-American Commission on Human Rights (IACHR), *Violence against LGBTI Persons*, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 280.

<sup>129</sup> Police and Social Coexistence Law (Ley de Policía y de Convivencia Social), Decree No. 226-2001. Available at: [http://www.poderjudicial.gob.hn/juris/Leyes/Ley%20de%20Polic%3%ADa%20y%20Convivencia%20Ciudadana%20\(09\).pdf](http://www.poderjudicial.gob.hn/juris/Leyes/Ley%20de%20Polic%3%ADa%20y%20Convivencia%20Ciudadana%20(09).pdf).

<sup>130</sup> See, among others: REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, pp. 10, 25 and 27-29; REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p. 20.

settlement. The victim was tied hand and foot and showed signs of blows, burns and strangulation.

175. It is regrettable that complaints of cases of trans sexual workers murdered by their clients, before or after receiving their sexual services are frequent. This was the case of Y.'s murder, one day during her working hours a group of men approached to consult her about her services. Then, they started to assault her until one of them took a gun and fired many times until she was dead.
176. Another case is that of O., who was offering her sexual services when a car approached. She went near the driver's window when suddenly and without a word she was murdered after receiving three shots in her chest.
177. The case of I., is the case of a young trans girl of 15 years of age. According to what her relatives said, one Sunday she went out for a walk and they knew nothing about her whereabouts until the next day when she was found dead. Her body was mutilated and had signs of having been beaten and tortured.
178. Finally, REDLACTRANS states that it is extremely serious that the information received shows that none of the complained cases of murder was investigated by the local authorities, which sinks in impunity the violence exercised against trans women. This had been a reason for concern by the IACHR already in 2011, when it expressed:

The IACHR calls upon the State of Honduras to prevent acts of discrimination and violence against members of the LGBTI community, and to investigate, prosecute and punish those responsible and redress promptly and diligently the violations.<sup>131</sup>

#### **D. The right to personal integrity**

179. In the framework of this project of complaints documentation, we have received numerous cases of non-fatal attacks that affect the personal integrity, a right enshrined in the Constitution<sup>132</sup> and in diverse treaties. The number of received cases show the violence and the hostility that trans women face on a daily basis.
180. One of the complaints report that P. was arrested without justification and verbally assaulted due to her gender identity and expression. She was hit, insulted and deprived of food for many hours at the police station. After that, the police officers forced her to have sex with them in exchange for her freedom. After the illegal detention, the humiliation, the beating and the sexual abuse, P. recovered her freedom but suffers from serious psychological consequences. Over 9 months of having made the complaint, she still got no answer from the agency where she filed the complaint.

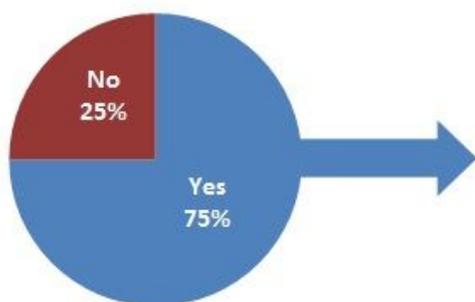
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<sup>131</sup> Inter-American Commission on Human Rights (IACHR), Press Release 4/11: "IACHR Deeply Concerned about Murders of Members of Transgender Community in Honduras", 20 January 2011. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2011/004.asp](http://www.oas.org/en/iachr/media_center/PReleases/2011/004.asp)

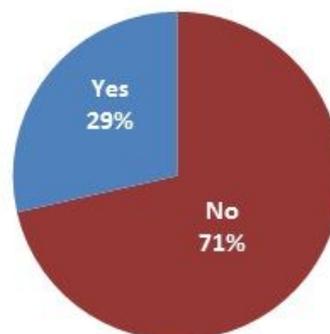
<sup>132</sup> Constitution of the Republic of Honduras, article 61.

181. It must be taken into consideration that **75%** of the trans women who provided information about their human rights abuses or violations made a formal complaint for the events (chart 3). These complaints were filed at the Office of the Prosecutor, police stations and the Office of the State’s Attorney/Ombudsman. However, only in **29%** of these cases the investigations were started, took safety measures or precautionary measures (chart 4).

**Chart 3.** Was a complaint filed after the aggression?

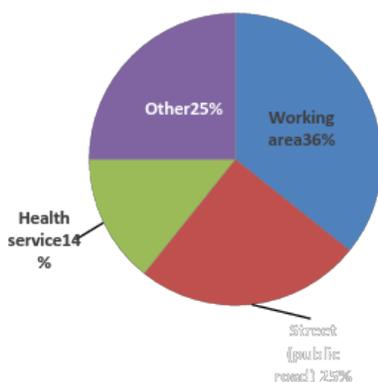


**Gráfico 4.** Was there an answer to the complaint filed?



182. The tendency that arises from the data provided by the victims seems to show that harassment and bullying to trans persons is approved by the Honduran society. More than **75%** of the cases reported were perpetrated in public areas, health centers, working area or the streets (chart 5).

**Chart 5.** Where the incident took place.



183. In this sense, many trans women provided information about violent and hostile situations that took place while they were walking in the streets. These cases show the high levels of hate and cruelty on the people who break social norms of gender.

184. This was the case of L., who was brutally assaulted while she was doing sex work. In fact, she was approached by a group of men wearing hoods who started to insult her due to her

gender identity and to hit her. They tried to murder her by beating her until she fell to the ground unconscious, which was when they thought she was dead and ran away. Finally, L. survived but she has multiple physical and psychological consequences.

185. Another case of physical aggression is the one provided by M. While she was offering her sexual services in the street, she was assaulted by a man on a motorcycle. After asking her if she was a cisgender or a trans woman, the motorcyclist started to fire at her with a gun. M. managed to escape after receiving a gunshot in an arm. The aggressor was arrested but the police set the man free a few hours later.
186. The complaint made by H. tells that after she provided her sexual services she was beaten in the street. The client did not want to pay for the services, what made H. demand for payment. In response, the man started to hit her hard until he escaped without being stopped.
187. A case that shows the current impunity, ignorance and prejudice by police forces is the one provided by S. She approached three police officers to shelter from the aggression she was suffering from a sexual client. The police officers reacted with outrage and rejection. After that, they started to physically assault S. who suffered serious physical and mental trauma.
188. Unlike the recent cases, the case of Q. tells how she was assaulted while she was walking in the street with a friend. She was walking until a passer-by approached her, insulted her due to her gender expression and shot at her in the chest, puncturing her right lung. Once she recovered, she had to leave the city because she had received repeated death threats.
189. A different case was that of K. who was assaulted at the door of her house. She commented that she had been a victim of offenses due to her gender identity and expression by her neighbors. Things got worse when one afternoon, as she was about to enter her house, a group of four neighbors approached the door of her house to rebuke for her gender identity. K. pointed out that their level of rejection and violence got to such an extent that they took a gun to make her “become a man” or they would kill her. After this situation, she had to run away from the neighborhood.

## **E. The right to health**

190. The right to health is enshrined in the local Constitution. It also sets forth that it is everyone's duty to participate in the promotion and preservation of individual and community health.<sup>133</sup>
191. However, the State of Honduras expressed to the IACHR that there are a great number of complaints against health professionals that based on their religious beliefs mistreat trans patients. In fact, they tell them that they are “a sin in the eyes of God.”<sup>134</sup> In this sense, the IACHR urged to adopt the necessary steps to apply standards of due diligence in the

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<sup>133</sup> Constitution of the Republic of Honduras, article 145.

<sup>134</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 198.

prevention, investigation and punishment of the violence against trans persons that occurred in the area of health, among other areas.<sup>135</sup>

192. In the framework of the project carried out by REDLACTRANS, many trans women had provided information regarding violations to their right to health. This was the case of M.L. and U. who after suffering an accident in public transport, they were taken to a hospital (Hospital Mario Catarino Rivas). They got there with embedded pieces of glass and other serious injuries. Those who were supposed to take care of them told them in an unfriendly manner that “there were no stretchers” nor doctors to see them. In response to this, the victims demanded for medical attention but they were told to find another hospital to receive health care. As they were refused access to health, M.L. and U. have physical consequences.
193. Another complaint was submitted for the death of R. One night while she was offering her sexual services, three people approached her on a car and violently demanded on her to “dance for them.” As she felt humiliated, the victim refused to do what was ordered but, as a result, the aggressors started to fire at her with guns. R. was agonizing on the ground and was taken to Hospital Mario Catarino Rivas. It is regrettable that when the medical staff noticed she was a trans woman, they refused to give her health care “until they confirmed her serological status.” Finally, R. died at the hospital after being prevented from accessing health care.
194. A group of trans women made a serious complaint against a public health center. This center provides retroviral drugs to the population that lives with HIV. One day, some trans women went to fetch said medication but they were told that they no longer had these drugs because the ones left, had expired. For this reason, they were prevented from continuing with their treatment. Then, the complainants were able to confirm from internal sources of the health center that the retroviral drugs expired due to the decision of the personnel of said health center, who did not rotate the products in stock.

## **F. Human rights defenders**

195. The situation that defenders of human rights of trans persons face does not escape from the situation described by many international human rights organizations and has motivated to express their concern.
196. As it was expressed by the Special Procedures of the United Nations Human Rights Council, challenging social structures, traditional practices and interpretation of religious precepts that may have been used historically to justify social gender norms may exacerbate the risks that defenders of human rights of LGBTI persons face.<sup>136</sup> In this sense, the Special Rapporteur

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<sup>135</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 26.

<sup>136</sup> See among others: Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, A/56/156, 3 July 2001, para. 25; Report submitted by the Special Representative of the Secretary-General on human rights defenders, E/CN.4/2001/94, 26 January 2001, para. 89(g); Report of the

on Torture pointed out that those who defend the human rights of trans persons are often very vulnerable to prejudice, to marginalization and to public repudiation, not only by State forces but other social actors.<sup>137</sup>

197. As regards the work of those who defend the rights of trans persons, the IACHR has expressed that

the defenders of organizations that promote and defend the rights of lesbian, gay, trans, bisexual and intersex persons (LGTBI) play a fundamental role in the region, both in terms of public oversight to ensure compliance with the States' obligations vis-à-vis the rights to privacy, equality and non-discrimination, and in general, in the process of putting together a global agenda of human rights that includes respect for and the guarantee of the rights of lesbian, gay, trans, bisexual and intersex persons.<sup>138</sup>

198. In this sense, our colleagues who work at the local organization Colectivo Unidad Color Rosa, have complained about violent acts at their premises. During a working day, five people entered their offices with guns. They insulted and assaulted our colleagues due to their gender identity and expression. Then, they started to put away in suitcases the papers and documents they had within reach. Before leaving they threatened to kill our colleagues if they made any kind of complaint.

199. On another occasion, our colleagues who defend the human rights of trans persons said that they have suffered a kidnapping attempt. In fact, when they left their offices, a gang followed them on a car. Suddenly, the gang got down and tried to take them on the car but our colleagues managed to escape. Later, they found out that the car had been at the door of the office during the working day.

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Special Rapporteur on the situation of human rights defenders, Margaret Sekaggva, A/HRC/13/22, Thirteenth Session 30 December 2009, para. 49.

<sup>137</sup> Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, A/56/156, 3 July 2001, para. 25.

<sup>138</sup> Inter-American Commission on Human Rights (IACHR), Second Report on the Situation of Human Rights Defenders in the Americas, para. 325. Available at: <https://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>; See also: Inter-American Commission on Human Rights (IACHR), Press Release 23/14, "IACHR Expresses Concern about Attacks against LGBTI Persons and other Forms of Violence and Restrictions against LGBTI Organizations in the Americas", 27 February 2014. Available at: [http://www.oas.org/en/iachr/media\\_center/PReleases/2014/023.asp](http://www.oas.org/en/iachr/media_center/PReleases/2014/023.asp)

## 6. SITUATION IN PANAMA

### A. The right to equality and non-discrimination

200. The Political Constitution of the Republic of Panama sets forth in its preamble that human rights are inalienable as well as Chapter III and the subsequent articles, especially article 19, which prohibits “discrimination, by reason of race, birth, disability, social class, sex, religion or political ideology”, complemented by article 20 which expresses that all Panamanians and aliens are equal before the law.<sup>139</sup>
201. In addition, REDLACTRANS and APPT congratulate enthusiastically the fact that the State of Panama is one of the States that has signed the Inter-American Convention against all Forms of Discrimination and Intolerance,<sup>140</sup> the first international human rights instrument that expressly recognizes gender identity and expression as prohibited grounds for discrimination. In this sense, REDLACTRANS and APPT urge the State to take all steps so that Panama may ratify the Convention by depositing this instrument before the OAS Secretary General, to achieve its entry into force as soon as possible.
202. However, there is no specific legal framework that aims to protect the rights of trans persons beyond the constitutional maxims and the signature of the Convention. There are no laws that enshrine the principle of equality and prohibit discrimination based on gender identity and expression.
203. It must be highlighted that within the framework of the Universal Periodic Review (hereinafter, “UPR”), Panama accepted 4 (four) specific recommendations by which undertook to expressly include gender identity among the prohibited grounds for discrimination.<sup>141</sup> In this sense, in the framework of the public hearing before the IACHR requested by REDLACTRANS and APPT on the human rights situation of trans persons in Panama, the State formally acknowledged the necessity to have legislation that protects the rights of trans persons and also expressed that for this purpose it would take into account the recommendations made by REDLACTRANS and APPT.<sup>142</sup> Finally, it is important to highlight that the State of Panama acknowledged that so far it had not addressed the trans issue

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<sup>139</sup> Political Constitution of the Republic of Panama. Available online at: <http://www.ilo.org/dyn/travail/docs/2083/CONSTITUTION.pdf>

<sup>140</sup> Inter-American Convention against all Forms of Discrimination and Intolerance, adopted in Antigua, Guatemala on Wednesday 5 June 2013.

<sup>141</sup> In effect, Panama accepted the following four recommendations: (1) Adopt and implement comprehensive anti-discrimination legislation which prohibits discrimination on all grounds, in particular on the basis of [...] gender identity (Ireland); (2) Adopt comprehensive anti-discrimination legislation, including on the basis of [...] gender identity (Netherlands); (3) Adopt legislation prohibiting acts of discrimination on the grounds of [...] gender identity, and adopt measures to promote the rights of [...] transgender and intersex people and prevent their discrimination (Chile); (4) Include [...] gender identity and expression among the prohibited grounds of discrimination (Uruguay); See: Report of the Working Group on the Universal Periodic Review: Panama, A/HRC/30/7, 8 July 2015.

<sup>142</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015. Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

specifically, but in general terms as part of more general efforts to combat discrimination of groups in a situation of vulnerability. In this regard, the State reiterated its appreciation for the recommendations made by the IACHR, REDLACTRANS and APPT, which would grant the State “the opportunity to make better policies on the subject.”<sup>143</sup>

204. REDLACTRANS and APPT congratulate Panama on formally accepting the recommendations of the UPR and on expressing the necessity to advance in the legislative area. In this sense, REDLACTRANS and APPT urge Panama to translate such commitment into concrete and tangible improvements for Panamanian trans persons as soon as possible and that gender identity be explicitly included as a prohibited ground for discrimination in all public policies and regulations enacted for that purpose. It must be particularly taken into account that the IACHR has emphasized that the States “must expressly include ‘gender identity’ as grounds for protection in legislation and in public policies.”<sup>144</sup> In this regard, the Commission has given consideration to the arguments of some of the States in the sense that the protection to trans persons may derive from the terms “sex” or “gender” included in the text of some legal regulations. Even so, the IACHR has expressed that “while a progressive interpretation by analogy and the use of open clauses may be useful tools for the interpretation of laws and regulations, the IACHR recommends the term ‘gender identity’ be expressly included for greater legal certainty and visibility.”<sup>145</sup>
205. As regards the inequalities that trans women face from an early age, REDLACTRANS has received complaints from women under 35 years old, and that 31% of them are in the age range between 18 and 24 (chart 1). These figures are consistent with a reality that has been documented previously by REDLACTRANS<sup>146</sup> and the IACHR<sup>147</sup> regarding the young age trans women are victims of violations of their rights.

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<sup>143</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 1:00:52). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

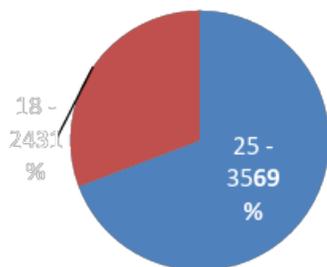
<sup>144</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 413.

<sup>145</sup> Inter-American Commission on Human Rights (IACHR), Violence against LGBTI Persons, OAS/Ser.L/V/II.rev.1 Doc. 36, 12 November 2015, para. 413.

<sup>146</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 26; REDLACTRANS, *La transfobia en America Latina y el Caribe: un estudio en el marco de REDLACTRANS*, [Transphobia in Latin America and the Caribbean: a study in the framework of REDLACTRANS.] 2009, p. 54.

<sup>147</sup> Inter-American Commission on Human Rights (IACHR), Press Release 153/14 “An Overview of Violence against LGBTI Persons in the Americas: a Registry Documenting Acts of Violence between January 1, 2013 and March 31, 2014.” 17 December 2014. Available at (in Spanish): <http://www.oas.org/es/cidh/lgtbi/docs/Anexo-Registro-Violencia-LGBTI.pdf>.

Chart 1. Age group of the victims.



## B. The right to gender identity

206. There is no law that recognizes the right to gender identity in Panama, which deepens the situation of vulnerability many trans persons are exposed to. The absence of such law has the effect of, among others, forcing trans persons to use identity cards that do not reflect their gender identity, being exposed to humiliation, discrimination, exclusion from the exercise of their human rights, especially their economic, social and cultural rights and exposing them to different forms of violence that imply serious violations to physical and psychological integrity and even deaths that occur too frequently.
207. Panama is one of the OAS State Members that still keep as a requirement for the recognition of the right to gender identity that the person who wishes to adapt his/her identity card is subjected to a sex reassignment surgery. In effect, there is a legal route that allows the “rectification” of the sex registration in identity cards and it is set forth in law 31 from 25 July 2006, in the relevant section of “rectification of certificates” in section 120.<sup>148</sup> Even though this disposition does not respond originally to the duty of the State to respect and ensure the right to gender identity, it is the only legal route that allows the registry adaptation. This means that any trans person who wants to access documentation that reflects his/her gender identity, must previously go through a surgical operation that irreversibly modifies his/her body and to offer evidence of this before the National Civil Status Registry of Panama.
208. In the recent public hearing held before the IACHR, the Panamanian State has admitted that “one of the main challenges it has as a country is related to the change of identity of the trans community.”<sup>149</sup> In fact, it explained with detail that in order to modify the registration sex a

<sup>148</sup> Law 31 (from 25 July 2006), which regulates the Registry of vital statistics and other legal acts related to the civil status of persons, and reorganizes the National Civil Status Registry of the Electoral Tribunal, Official Gazette of Panama No. 25599, S. 120. Available online at: [http://gacetas.procuraduria-admon.gob.pa/25599\\_2006.pdf](http://gacetas.procuraduria-admon.gob.pa/25599_2006.pdf)

<sup>149</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 27:33). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

process of three steps must be followed: firstly, the interested person must submit a written application; secondly, they must provide “authenticated documents that validate a sex reassignment surgery was made.” Finally, the applicant “is subjected to a physical examination by a forensic doctor from the Institute of Legal Medicine” and besides, “a statement from the person is required.”<sup>150</sup>

209. REDLACTRANS and APPT denounce that this kind of legal requirements arbitrarily violate the human rights of trans persons. In particular, we claim that having a surgical operation of any kind must be a decision freely accepted by the person, with free, prior and informed consent. Taking decisions related to processes that tend to modify the body and the appearance of a person is a right of every person and under no circumstances can be an obligation or a legal requirement. In these terms, demanding by a law a surgical operation in order to obtain the recognition of his/her own gender identity is an affront to the dignity of the person and amounts to a violation to the right of personal self-determination, to personal integrity –physical and psychological- and to health, among others. Furthermore, bearing in mind that this kind of surgical operations usually imply the loss of fertility and the reproductive capacity, the requirement of having these kinds of surgeries may imply an involuntary sterilization, which violates sexual and reproductive rights of trans persons.
210. In a recent report from the elimination of forced, coercive and otherwise involuntary sterilization signed by different UN bodies and agencies –among them the Office of the United Nations High Commissioner for Human Rights, the World Health Organization, UNAIDS, UN Women, UNICEF and UNDP– it was highlighted that these kind of medical-legal requirements reflect the historic abuse and the discrimination that trans persons suffer all over the world.<sup>151</sup> In addition, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment denounced in particular this kind of legal requirement in his report on torture and health for the year 2013.<sup>152</sup>
211. These requirements respond to a logic that pathologizes trans identities and operate by prejudice on gender and sexuality that cannot take place in a democratic society that respects the dignity of its members. In this sense, these requirements are a form of institutional violence legally exercised against trans persons and are openly incompatible with the American Convention on Human Rights, the Protocol of San Salvador and the Inter-American Convention to Prevent and Punish Torture, all these Inter-American instruments ratified by the State of Panama.

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<sup>150</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 27:42). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

<sup>151</sup> Eliminating forced, coercive and otherwise involuntary sterilization: an interagency statement, OHCHR, UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, 2014, page 2.

<sup>152</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/22/53, 1 February 2013, para. 78.

212. In addition, the text of the law sets forth that the adaptation of the registration must be formalized “by a legal representative”, asking for an additional requirement that may be an obstacle for those who cannot afford the costs of legal representation.
213. The member organizations of the network REDLACTRANS claim that the lack of legal recognition that trans persons have suffered for years is one of the main reasons that explain why our basic needs are not met and we have also suffered constant situations of exclusion, marginalization and discrimination. REDLACTRANS has already stated that the lack of recognition of the right to gender identity and the impossibility of accessing identification documents that reflect their gender identity “keep trans women invisible in the official records and systems.”<sup>153</sup> For this reason, despite its high rate of frequency, it is difficult to define precisely the scope of human rights violations against trans women in Latin America due to the lack of specific information about this population.<sup>154</sup> Likewise, the recognition of the right to freely exercise gender identity is fundamental to access economic, social and cultural rights.<sup>155</sup> In effect, the fact of bearing documentation that does not reflect their gender identity puts trans women in a serious vulnerable situation preventing the access to basic human rights such as the right to education, work, health, and housing, among others. In this sense, a gender identity law is perceived by trans persons themselves as a way of countering this historic lack of the full exercise of citizenship.
214. National organizations in other countries of America have documented local experiences after the enactment of a gender identity law, showing that while a law does not automatically eliminate all the factors that contribute to the situation of vulnerability of trans persons, its adoption and implementation caused a noticeably positive impact on the access to rights, life conditions and quality of life of trans persons.<sup>156</sup>
215. In addition, it is important to highlight in this regard that the Inter-American Commission congratulated enthusiastically for the adoption of decrees that ensure the right to gender identity in Mexico City and Colombia, pointing out that in these jurisdictions, the amendment in the registration can be made through “simple administrative procedures” and highlighting that prior to the adoption of these positive measures, the previous legal regulation set forth requirements that pathologized trans persons,<sup>157</sup> as it is the case of the current legislation in Panama.

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<sup>153</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>154</sup> REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, p. 12.

<sup>155</sup> REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.11.

<sup>156</sup> See: Fundación Huésped, Asociación de Travestis, Transexuales y Transgéneros de Argentina (ATTTA), *Ley de identidad de género y acceso al cuidado de la salud de las personas trans en Argentina*, [Gender identity Law and access to health care of trans persons in Argentina.] 2014. Available in Spanish at: <http://redlactrans.org.ar/site/wp-content/uploads/2014/01/leyGeneroTrans.pdf>.

<sup>157</sup> IACHR, Press Release 75/15: IACHR Congratulates Mexico and Colombia for Measures Recognizing Identity of Trans Persons, 1 July 2015.

216. We have documented many complaints of trans women that when they went to have their identity card issued at the Documentation Center of the Electoral Tribunal, they are forced to “behave” and/or dress according to heteronormative standards based on their registration sex that appears in their identity card to complete the legal and administrative procedure. In this sense, they are not only prevented from accessing to documents that show their gender identity but they are humiliated and vexed by state agents at the moment of carrying out the documentation procedure.

### C. Institutional violence

217. The data from the survey in Panama are again consistent with the data REDLACTRANS has documented throughout these years in different countries in the region regarding the extreme vulnerability of trans women in sex work,<sup>158</sup> who are more exposed to crimes and abuses by police forces. In effect, the absence of a legal framework that recognizes sex work as formal employment leaves those who exercise it with little choice as to where to or under which conditions work and their activity is left to the discretion of the control of administrative or police authorities.<sup>159</sup> As regards the complaints received from Panama, 46% of the victims were a sexual worker and 23% claimed to be unemployed (chart 2)

218. The IACHR has acknowledged the situation of vulnerability of trans persons and trans women in particular, after the exposure to situations of violence they suffer due to different factors: exclusion, discrimination and violence in their families, schools and society in general; the lack of recognition of their gender identity; occupations that put them in a greater risk to suffer violence; and a high level of criminalization.<sup>160</sup> This situation is worsened when trans women suffer systematic practices perpetrated by police officers and the security forces.

219. REDLACTRANS has verified this situation of particular concern in Panama through the work of surveying the complaints, where we have registered a frequent and systematic practice whereby Panamanian police officers extort money or sexual favors from trans women in exchange for their freedom when they are arbitrarily arrested.

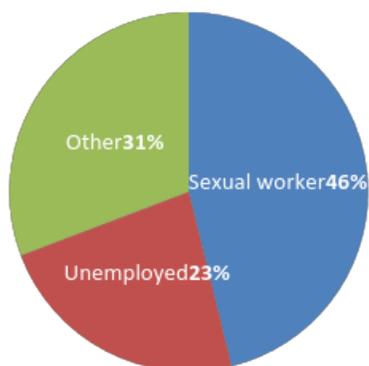
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<sup>158</sup> See, among others: REDLACTRANS, *The night is another country: Impunity and violence against transgender women human rights defenders in Latin America*. 2012, pp. 10, 25 and 27-29; REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.20.

<sup>159</sup> REDLACTRANS, *Report on the economic, social and cultural rights of the Transgender population of Latin America and the Caribbean*. 2014, p.21.

<sup>160</sup> IACHR, *Press Release 153/14: IACHR Expresses Concern over Pervasiveness of Violence against LGBTI Persons and Lack of Data Collection by OAS Member States*, 17 December 2014.

**Chart 2.** Occupation of the victim.

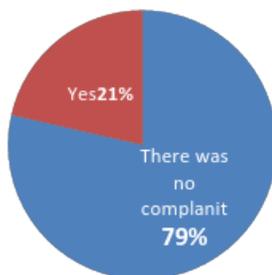


220. Among the paradigmatic and representative cases of police violence and discrimination is that of A.N., a trans activist of APPT who was insulted by police officers while she was buying food at a restaurant. The owner of the shop told the officers that she was buying food without committing any crime. All the same, the police officers continued insulting her from outside the shop by shouting “get out of there faggot!” and “you’ll have to go out one day!” A.N. decided to wait until the police officers walked away but as this did not happen, she tried to escape. However, as she went out, she was caught by four police officers who beat her up leaving her seriously injured with cuts and traumas. After that, she was abandoned to her fate in the surroundings of the place. To make matters worse, neither the police station nor the Ombudsman took her complaint without witnesses. All the people that were present at the place and time of the events refused to make a statement fearing retaliation.
221. Among the documented complaints we found the case of Y.M., a trans woman who does sex work and complained that night after night the police assault and attack her and her colleagues, arrest them arbitrarily under the pretext of “disturbing public morals.” Therefore, police officers excuse themselves on rules that supposedly protect public morals but in practice are used as tools to selectively persecute trans persons, especially trans sexual workers. Instead of protecting their safety and integrity, police officers in Panama humiliate and discriminate trans women by accusing them of being offenders.
222. Other complaints explain how Panamanian police officers become “imposed pimps” as once trans women are arrested, they are not presented before the relevant authorities. In fact, in exchange for freedom, police officers demand for money and if trans women refuse to do so, they are victims of all kinds of vexations and even rape or sexual abuses. It goes without saying that this criminal circuit and forced money flows that trans women are subjected to is not registered anywhere, there is no record, document or receipt that proves the procedure of collection of money. While pimping is punishable by the Penal Code of Panama and discrimination and ill-treatment by the Constitution, the victims do not take their complaints to the judicial or administrative area fearing retaliation and a greater stigmatization. In

addition, acts of physical and psychological violence are frequent at the moment of the arrest and during the period of detention.

223. It is highly concerning the fact that from the surveyed cases in Panama, **79%** of them were not formally filed which means that the majority of the cases were not duly investigated and were left unpunished.

**Chart 7.** Was a complaint filed after the aggression?



224. When the State of Panama had to refer to security forces in general at the hearing held before the IACHR in October 2015, it acknowledged “the existence of discrimination” to the detriment of the LGBTI population<sup>161</sup> and affirmed that for this reason “a representative of this community was incorporated to the National Commission against Discrimination, which represents a space to submit complaints of the actions of officers that commit discriminatory acts based on sexual orientation and gender identity.”<sup>162</sup> In addition, Panama undertook to hold a meeting with trans activists in order to hear their claims and deal with the complaints on the imposition of discriminatory fines to trans persons by police officers.<sup>163</sup> These commitments shall be closely followed by REDLACTRANS and APPT for their full compliance.

#### **D. The right to health**

225. In 2010, the Committee on the Elimination of Discrimination Against Women (CEDAW) expressed its deep concern regarding the suffering of certain groups of women, in addition to

<sup>161</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 37:24). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

<sup>162</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 37:24). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

<sup>163</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 38:55). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

being affected by gender stereotypes, face multiple forms of discrimination as well as violence on grounds such as sexual orientation and gender identity.<sup>164</sup>

226. In the framework of the record of violations and abuses, we have collected complaints of discriminatory acts in health services in Panama, including ill-treatment and reluctance to attend to patients when the personnel find out about their gender identity. In addition, we have registered complaints about different humiliations that trans women are subjected to when they require health services. A typical situation is to deny access to the health system with religious arguments. The personnel responsible for providing medical services refuse to do so because they consider trans persons “abominations of God’s creation.” This expression of psychological violence impacts on the self-esteem of the victims and, in many cases, they do not receive the medical services they asked for. These situations make the affected persons tend to avoid seeking medical attention henceforth or restrict them to attend special programs of partial attention.
227. Another repeated activity in the complaints is to deny medical services to trans women on the grounds of a supposedly “lack of room” which is usually accompanied by mocking by the administrative and/or medical personnel. We have also received complaints in which the personnel at medical centers replicate the requirements of the Documentation Center previously mentioned: trans persons who ask for attention must “behave” and dress according to heteronormative standards based on their registration sex that appears in their identity card.
228. It can be seen in many cases a vicious circle of exclusion that arises clearly as evidence of how trans persons are systematically deprived of the access to economic, social and cultural rights in Panama. In fact, H.S. a trans woman who needed to have the medical studies necessary to obtain a health card, was denied the attention because her gender identity did not coincide with her sex that was assigned at birth. The impossibility to obtain this health card made her lose a job position she had obtained.
229. Another consequence of the exclusion from the official health system is that many trans women die at the hands of practitioners who administer treatments or products that are not adequate for body modifications, generally without a proper medical supervision, with poor asepsis and technical conditions, using implants<sup>165</sup> or harmful substances to their health that risk their health and even their own lives.
230. Finally, it must be pointed out that in the framework of the public hearing before the IACHR in October 2015, the State of Panama acknowledged the shortcomings in the health system and the serious situation of vulnerability of trans persons, so it undertook to strengthen the prevention and treatment of HIV to groups in situation of vulnerability, such as trans persons

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<sup>164</sup> Concluding Observations of the Committee on the Elimination of Discrimination against Women in Panama, UN, 2010

<sup>165</sup> Telemetro, “Travesti murió tras intervención quirúrgica con aceite de avión”, [Transvestite died after surgical operation with airplane oil.] 20 November 2014. Available in Spanish at: [http://www.telemetro.com/nacionales/Travesti-intervencion-quirurgica-aceite-avion\\_0\\_754424941.html](http://www.telemetro.com/nacionales/Travesti-intervencion-quirurgica-aceite-avion_0_754424941.html)

and to improve the comprehensive healthcare system by opening “friendly clinics” for trans persons with specially trained personnel in order to ensure the monthly attention to trans persons –and even weekly attention for health controls to trans persons who do sex work.<sup>166</sup> In addition, at the same hearing, Panama expressed that it would bear in mind the recommendations of REDLACTRANS and APPT regarding the obligations in the area of health and hormonization process, pointing out that the Ministry of Health has admitted that “if such procedures are not properly carried out, it may lead [trans persons to] a death risk.”<sup>167</sup> These commitments must be followed at the domestic level and REDLACTRANS and APPT will advocate to the necessary extent to have these commitments translated into concrete reality.

## E. The right to education

231. As regards the exercise of the right to education, there are many cases of LGBTI persons who were expelled from educational institutions (public and at secondary level in most cases) due to their sexual orientation or gender identity. In a report published in 2013,<sup>168</sup> it is pointed out that in order to avoid discrimination at the educational system, Panamanian trans women are forced to live a double life which makes them adopt a masculine identity at formal areas and to show their preferred female identity in private spaces.
232. Naturally, since they are not guaranteed the rights to education and health, many trans persons are prevented from, or with very few opportunities to enter the labor market. For this reason, many trans women find in sex work a means of subsistence. All the same, they cannot do sex work freely due to the situations of risk, discrimination and violence they are exposed to.
233. In addition, we have documented cases of discrimination against trans persons at formal labor environments. For instance, we received the case of M.F. a trans woman that after informing she would start the transition process at work, the chief of human resources started to harass her and pointed out that this situation would cause problems with the rules of the institution. As a result, she started to receive warnings that caused psychological complications that led her to depression.

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<sup>166</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 29:02). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

<sup>167</sup> Inter-American Commission on Human Rights (IACHR), Hearing: Human Rights Situation of Trans Persons in Panama, 156th Session, 19 October 2015 (watch at 33:54). Available at: <https://www.youtube.com/watch?v=At3Lp26inKw>

<sup>168</sup> AIDSTAR, Diagnóstico de Necesidades de Salud Y Servicios Disponibles para la Población Trans de Panamá, [Diagnosis of the Needs of Health and Services Available to the Trans Population in Panama.] 2013.

## 7. RECOMMENDATIONS TO STATES

234. In consideration of all these concerns, REDLACTRANS and the organizations of the network have formulated the following observations and recommendations to the States.

235. The right to gender identity:

- (a) **Enactment of a law on gender identity that recognizes and guarantees the free right to exercise gender identity of trans persons.** REDLACTRANS and the organizations of the network urge the States to take all the steps to enact a law on gender identity that sets forth accessible, fast and simple legal mechanisms, preferably administrative, which allow trans persons to modify their registration name and sex in their identification documentation, at the request of the person concerned only and without requiring medical, psychiatric or psychological diagnoses, sterilization, nor any other invasive procedure as a precondition. This law must also ensure the confidentiality of the process and of the documentation involved. In addition, it is recommended that legal assistance should not be a mandatory or exclusive requirement to file the request. It is advised to follow the good practices of other States in the region, for instance, Law 20743<sup>169</sup> by which the Argentine State fully recognizes the right to gender identity to trans persons.
- (b) **Establish mechanisms of communication, cooperation and coordination with civil society organizations that advocate for the rights of trans persons.** The process of elaborating a gender identity law and of any public policy that involves the trans community must count on the priority participation of national and regional organizations that advocate for the rights of trans persons. This will guarantee that the people who will benefit from the devised and implemented policies may provide their point of view and make their contributions so that the measures may be adequate and effective to solve the current problems.
- (c) **Establish mechanisms of cooperation with international human rights organizations on how to elaborate a gender identity law.** REDLACTRANS and the organizations of the network urge the States to set up mechanisms of cooperation, especially in legal consulting with international human rights organizations in the area of gender identity such as the Inter-American Commission on Human Rights and the Office of the United Nations High Commissioner for Human Rights in order to adapt their local legislation to the international human rights standards.

236. Institutional violence:

- (a) **Train security forces on their obligations of respect and protection of the rights of the trans community.** REDLACTRANS and the organizations of the network call on the States to take urgent measures to reverse the situation of violence and discrimination

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<sup>169</sup> Law 26743 (from 23 May 2012) sets forth the right to gender identity of persons. Argentina. Available at <http://www.infoleg.gov.ar/infolegInternet/anexos/195000-199999/197860/norma.htm>

trans persons suffer, especially trans women, which are perpetrated by police officers. Special emphasis should be placed on eradicating practices of arbitrary detention based on “morals” or “public decency” laws specially used against trans women in public spaces. The training must be coordinated by a group of professionals sensitized on the rights of trans persons and with trans persons from a secular and human rights perspective.

- (b) **Seriously investigate and eventually punish police officers involved in arbitrary detentions, extortions and violence against trans persons and take all the necessary steps to eliminate these practices.** The States must carry out judicial proceedings to investigate all the crimes committed by police officers against trans persons. The proceedings must comply with the standard of due diligence, be thorough, serious and impartial and prosecute and punish those responsible. All logical lines of research must be followed and give due consideration to the eventual motivations based on gender identity of the victims.
- (c) **Establish mechanisms that facilitate and ensure the complaints of police abuses and violence and the effective access to justice without discrimination or risk of retaliation against the complainants.** REDLACTRANS and the organizations of the network ask the States to develop specific and efficient mechanisms to ensure the access to justice of all trans persons in order to generate mechanisms of protection and guarantee of their human rights. In this sense, the necessary steps must be taken in order to ensure (1) the legal advice and assistance to victims of human rights abuses and violations and also ensure legal representation whenever the victim wishes to take legal action; (2) the existence of mechanisms of protection for the victims that denounce and express fear to retaliation for having formally filed the complaint; and (3) specifically train those who are in charge of receiving complaints and to sensitize them in the area of the rights of trans persons in order to guarantee a service of quality and respectful of the gender identity of the victims.

237. The right to equality and non-discrimination:

- (a) **Enact a law against discrimination that explicitly includes gender identity among the prohibited grounds for discrimination.** REDLACTRANS and the organizations of the network call on the States to take all the relevant measures to enact laws against discrimination that explicitly include gender identity. It must be pointed out that the normative standards of respect to human rights that the society may incorporate from this kind of laws shall strengthen the achievements of awareness and social education schemes.
- (b) **Sign and ratify the Inter-American Convention against all Forms of Discrimination and Intolerance.** REDLACTRANS and the organizations of the network urge the States to take all the conducive measures to sign and ratify the Convention by depositing this instrument before the OAS Secretary General, to achieve its entry into force as soon as possible.

- (c) **Initiate a National Plan of Human Rights that includes trans persons.** REDLACTRANS and the organizations of the network call on the States to devise, finance and manage a national plan that provides for strategies for the elimination of discrimination and violence against trans persons. The plan must include state and institutional public campaigns and the trans community must participate in the design and planning together with the State and the organizations that advocate for the human rights of trans persons.
- (d) **Implement programs to prevent and eliminate discrimination on sexual orientation and gender identity and expression in the media and to control and sanction the media that discriminate or incite to discrimination.** The States must develop, together with the organizations that advocate for the rights of LGBTI persons and the mass media authorities, campaigns to prevent and eliminate discrimination based on gender identity and expression in the media.

238. The right to health:

- (a) **Implement programs to eliminate discrimination and to improve the comprehensive healthcare system for the trans community within the health systems.** The States must include in the national health system the comprehensive approach of the needs of the trans population, specially the hormonization processes and supervised processes of alteration of the body. In this way, self-medication can be avoided as well as the serious risks of this practice for trans persons. Besides, it is essential to eliminate all the barriers to access comprehensive healthcare and in particular, the means of prevention and treatment of HIV and other sexually transmitted diseases.
- (b) **Establish programs of training for health teams on health, gender identities, human rights and attention to trans women.** It is fundamental and urgent that the States generate spaces of training in aspects that help health professionals to understand and treat the trans population respectfully. The training provision has to be wider to benefit as many professionals as possible.

239. The right to work:

- (a) **Develop public policies that generate labor and social inclusion for the trans community according to their capacities.** REDLACTRANS and the organizations of the network consider that the role of the State in the promotion and encouragement of employment opportunities of the trans population is of great importance. This kind of measures would avoid the fact that trans women have to resort to sex work as their only means of subsistence. It is necessary to devise and implement programs that ensure the access to employment possibilities according to their capacities and training apart from promoting respect and non-discrimination in the occupation they exercise.

240. The right to education:

- (a) **Enact a law against school bullying that expressly provides for bullying based on gender identity and to implement policies of prevention and eradication of school**

**bullying that expressly provide for trans persons.** The States must take urgent measures so that school bullying based on gender identity or expression of the victims is addressed as a human rights issue in order to guarantee that the educational environments are free from violence and discrimination against trans students.

- (b) **Train and sensitize teaching staff, directors and other school personnel on school bullying and the rights of trans persons.** It is vital that the States train all the educational personnel on human rights and the rights of trans persons so that they have the tools to act in the prevention and the approach of cases of school bullying against trans persons.
- (c) **Include male and female trans children and adolescents in the policies and practices of childhood and adolescence protection, in special those aimed to victims of violence and expulsion from their family or school.** REDLACTRANS and the organizations of the network call on the States to develop a comprehensive and effective plan for the protection of trans girls, boys and adolescents in order to ensure their rights to access education and to have shelters that can meet their needs in case of being expelled from their homes.

241. Information collection:

- (a) **Generating mechanisms of collection and systematization of data about cases of violence against trans persons.** REDLACTRANS and the organizations of the network deem urgent the implementation of programs to collect and systematize information by the States, in particular the gathering of data about complaints of violence and discrimination in order to identify, disaggregate and address the main problems the trans community is facing. These mechanisms should include the survey of information from police stations, offices of the prosecutor, offices of the state's attorney, courts of law, among other sources that may be informed of acts of violence against trans persons.