



2020

LEGAL GENDER RECOGNITION & ACCESS TO TRANS-AFFIRMING HEALTHCARE IN EAST AFRICA

East Africa Trans Health
& Advocacy Network

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EATHAN

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ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immuno-Deficiency Syndrome
EATHAN	East Africa Trans Health & Advocacy Network
FTM	Female to Male
SGBV	Sexual & Gender-Based Violence
GNC	Gender Non-Conforming
HIV	Human Immunodeficiency Virus
STI	Sexually Transmitted Infection
UHC	Universal Health Coverage
CSO	Civil Society Organisation
EAC	the East African Community
HRT	Hormone Replacement Therapy
ITGNC	Intersex, Transgender, and Gender Non-Conforming
SW	Sex Worker
KP	Key Population
LGBTI	Lesbian, Gay, Bisexual, Transgender, and Intersex
MSM	Men who have Sex with Men

ACRONYMS AND ABBREVIATIONS

MTF

Acquired Immuno-Deficiency Syndrome

WSW

East Africa Trans Health & Advocacy Network

SGD

Female to Male

GLOSSARY OF TERMS

Transgender:

A term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. "Trans" is shorthand for "transgender." (Note: Transgender is correctly used as an adjective, not a noun, thus "transgender people" is appropriate but "transgenders" is often viewed as disrespectful).

Transgender Man:

A term for a transgender individual who currently identifies as a man (also "FTM"; Trans man/men).

Transgender Woman:

A term for a transgender individual who currently identifies as a woman (also "MTF"; Trans woman/women).

Trans* diverse:

An umbrella term used to describe all those whose gender identity is at odds with their biological sex.

Gender Identity:

An individual's internal sense of being male, female, or something else. Since gender identity is internal, one's gender identity is not necessarily visible to others.

Gender Expression:

How a person represents or expresses their gender identity to others, often through behavior, clothing, hairstyles, voice or body characteristics.

Gender Non-conforming:

A term for individuals whose gender expression is different from societal expectations related to gender.

Gender Affirming Surgery:

Surgical procedures that change one's body to better reflect a person's gender identity. This may include different procedures, including those sometimes also referred to as "top surgery" (breast augmentation or removal) or "bottom surgery" (altering genitals). Contrary to popular belief, there is not one surgery; in fact, there are many different surgeries. These surgeries are medically necessary for some people, however not all people want, need, or can have surgery as part of their transition. "Sex change surgery" is considered a derogatory term by many.

GLOSSARY OF TERMS

Gender-Variant:

This term describes people who by chance or choice do not conform to gender norms associated with their assigned sex.

Hormonal Therapy:

Transgender hormone therapy is a form of hormone replacement therapy (HRT) in which sex hormones and other hormonal medications are administered to transgender or gender variant individuals for the purpose of more closely aligning their secondary sexual characteristics with their gender identity.

Sexual Orientation:

A term describing a person's attraction to members of the same sex and/or a different sex, usually defined as lesbian, gay, bisexual, heterosexual, or asexual.

Transition(ing):

The time when a person begins to live and socialize as the gender with which they identify rather than the gender they were assigned at birth, which often includes changing one's first name (for some) and dressing and grooming differently. Transitioning may or may not also include medical and legal aspects, including taking hormones, having surgery, or changing identity documents (e.g. driver's license, passport and other identity documents) to reflect one's gender identity. Medical and legal steps are often difficult for people to afford.

Key Population:

UNAIDS considers gay men and other men who have sex with men, sex workers, transgender people, people who inject drugs and prisoners and other incarcerated people as the five main key population groups that are particularly vulnerable to HIV and frequently lack adequate access to services.

Intersex

A term used for people who are born with a reproductive or sexual anatomy and/or chromosome pattern that does not seem to fit typical definitions of male or female. Intersex conditions are also known as differences of sex development (DSD).



ACKNOWLEDGEMENTS

We would like to thank everyone who spent tireless workhours on this report. This report would not have been possible without the continued support of all parties involved in writing it.

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Thirdly, we acknowledge the invaluable support we received from RFSL – the Swedish Federation for LGBT Rights and UNAIDS for their technical and financial support and continued patience with us. We would not have done this as well as we did without their support.

This report would not have been completed without the immeasurable technical and advisory support of our partners regionally. We are indebted to the work done by the staff team and Chivuli Ukwimi towards writing, editing, and fine-tuning this report and making it as beautiful as it is now.

Most importantly, we are eternally grateful for all the ITGNC persons who took their time, tolerated our pushing, and participated in this research wholeheartedly. We are indebted to you.



METHODOLOGY

This is a “Descriptive study” employing a qualitative research method approach. The aim of the study was to explore ‘Legal Gender Recognition & Access to Trans Specific Healthcare’ for trans, intersex and non-binary persons in five countries in East Africa.

The study population included Intersex, Transgender and Gender Non-Conforming (ITGNC) persons living in Burundi, Kenya, Rwanda, Tanzania and Uganda. Key informants from local organizations were also included in the study. A quota sampling method was used targeting ITGNC persons in the age ranges of 18 – 29 years; 30 -45 years and 45> years living in the major cities of Bujumbura, Dar-es-salaam, Kampala, Kigali, Kisumu, Mombasa, Nairobi and Zanzibar. The total sample size was 136 distributed as - Burundi – 20 (Bujumbura); Kenya – 50 (Nairobi, Kisumu, Mombasa); Rwanda – 24 (Kigali); Tanzania – 25 (Dar es salaam, Zanzibar); and Uganda – 17 (Kampala).

Data was collected through an initial desk top research and literature review and then structured face to face individual interviews using questionnaires for the ITGNC study participants. In addition, semi-structured interviews were held with key informants from local civil society organizations (CSOs) organizations and institutions.

Executive Summary

The East African Intersex, Transgender and Gender Non-Conforming (ITGNC) community continues to face a myriad of challenges despite some of the region's major gains being made by and for the community. One of the major challenges towards improving the situation for the ITGNC community is and has been limited capacity among ITGNC activists in the region, including the capacity to conduct research that leads to evidence-informed advocacy.



It is well understood that with strategic and long-term advocacy efforts at local, regional, and international level, great changes can be made. In addition to the importance of having community-led research to complement Member State reports, it is important to recognise the lack of research and/or information in this particular area of focus.

It is for this reason that EATHAN embarked on a research study focusing on Legal Gender Recognition & Access to ITGNC Specific Healthcare in East Africa. The findings from this research will foster greater understanding on the subject matter. Through this work, we foresee having a great foundation for engagements with the UN, its mechanisms and other bodies.

We also hope that this report can be used to inform the work of the UN Independent Expert on SOGIE and be included in their reports.

We also intend to use this report in informing our work with the ITGNC community in East Africa. It is evident from the research findings that there is indeed a long way to go for us to achieve full rights accorded to us regardless of our gender identity, expression or sex characteristics.

Finally, we will use this report to engage in dialogue with other civil society organizations, UN bodies and regional development partners in order to develop joint advocacy strategies in Universal Health Coverage (UHC) related processes, EAC mechanisms, National Human Rights Institutions, and Parliamentarians. With the aim of improving the health and wellbeing of ITGNC person in East Africa.



1. Introduction and Background

Gender-affirming care, including hormone therapy, gender affirming surgeries and puberty blockers are essential for the overall health and wellbeing of ITGNC persons. However, many ITGNC people face significant barriers in accessing gender-affirming health care (Puckett et al., 2018). Further, ITGNC persons face many challenges in their daily lives due to the lack of legal documents that reflect their true selves (Köhler, Recher & Ehrt, 2013). According official recognition to an ITGNC person's gender identity is key in enabling ITGNC persons access various services with ease. However, beyond the administrative aspects, this gives ITGNC persons the opportunity to realise their full potential and take part in all socio-economic aspects of live within the societies that they live in.

In 2018, EATHAN participated in the Rainbow Academy Programme Organised by the Swedish Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Rights (RFSL). As part of continuing the programme, EATHAN decided to do a study looking at the 'Legal Gender Recognition & Access to Trans Specific Healthcare for trans, intersex and non-binary persons in East Africa. The findings from this research will foster greater understanding on this subject matter and enhance Legal Gender Recognition & Access to ITGNC Specific Healthcare in East Africa.



2. Contextual Analysis

2.1 Regional Context



The context in East Africa is generally hostile to the existence and needs of sex and gender diverse (SGD) persons. This context poses multiple challenges and barriers for ITGNC persons in attaining legal gender recognition and access to ITGNC specific health services. The legal, health, safety & wellbeing context for ITGNC persons in the region is articulated below:

2.1.1 Legal and Policy Context



All the countries in the region with the exception of Rwanda, criminalise adult same sex activity and relations through their penal codes. This legal context makes it difficult to advocate for any legal gender recognition for ITGNC persons. All the constitutions of the countries in the region protect all citizens from all forms of discrimination, however attempts to challenge punitive and discriminative laws before the courts of law have yielded very little success for ITGNC persons with a few exceptional wins for Intersex and Transgender people in Kenya.

Therefore, even though constitutions of the five countries guarantee equality before the law for all citizens. This is still far from being a reality due to the unfair and discriminatory penal codes that remain in place.

2.1.2 Access to Gender Affirming Health

Access to gender affirming health care is almost non-existent for ITGNC persons across East Africa. Health services for gender and sex diverse persons are lumped under HIV related clinical services for “Key Populations”. This poses a great challenge for ITGNC persons as the health and HIV/AIDS prevention, care and support interventions have largely focused on cisgender sex workers and men who have sex with men (MSM). For example, the recent Kenyan National strategy for HIV and AIDS defines Key Populations as sex workers, Men who have sex with Men (MSM) and People who inject drugs. This systematic exclusion of ITGNC persons from tailored health services has resulted in limiting the health outcomes for ITGNC persons in East Africa.

2.1.3 Safety & Security

The punitive and discriminatory legal framework in EAST Africa has fuelled sentiments of hate and violence from both state and non-state actors. Arbitrary arrests and crack downs on sex and gender diverse person is a common occurrence that is carried out with impunity by law enforcement officers. here are also many cases of blackmail and sexual and gender based violence (SGBV) against ITGNC persons.



The unfavourable legal and policy context has also meant that ITGNC persons have limited opportunity to seek justice and recourse for the violence faced by their community. This context has also hugely decreased the safety and security index for ITGNC persons that end up living in constant fear and hiding.

2.1.4 Mental Health and Wellbeing

The mental health and wellbeing of ITGNC persons in East Africa has become increasingly compromised by the negative legal, socio economic and cultural environment that they live and exist in. The lack of access to legal gender recognition and ITGNC specific health services has increased the levels of mental distress within ITGNC communities. Evidence has shown that more and more ITGNC persons have either contemplated or attempted suicide with many currently undergoing counselling. This is largely due to the prevailing high levels of stigma and discrimination within society and the continued lack of gender recognition of ITGNC persons which is in essence a deprivation of a self.[2]



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[2] Why Transgender People Experience More Mental Health Issues available at <https://eathan.org/why-transgender-people-experience-more-mental-health-issues/>

2.2 Country Context

Burundi

Burundi through Article 567 of the 2009 revised and amended penal code, criminalises adult same sex sexual activity for both men and women with a penalty of up to 2 years' maximum imprisonment and a stipulated fine.[3]

The 2005 constitution of Burundi guarantees the right from all forms of discrimination to all citizens however, like in many other countries in the region the criminalisation of same sex sexual activity in the penal code is conflated with issues of gender identity making the legal and socio-economic environment hostile for ITGNC persons and communities.



State sponsored intolerance for sex and gender diverse persons fuels the levels of stigma and discrimination of ITGNC persons in Burundi with multiple reported cases of illegal arrests and detentions by law enforcement officers.[4]

This hostile context poses major challenges for ITGNC persons to access health and legal services. This negative context has resulted in almost non-existent ITGNC specific health care with many ITGNC persons lacking access to general health care and other gender affirming care such as access to hormonal therapy and gender affirming surgery.

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[3] 2014 shadow report to the human rights commission available at https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BDI/INT_CCPR_CSS_BDI_18263_E.pdf
[4] <https://76crimes.com/2017/11/09/burundi-announces-official-hunt-for-lgbti-people/>

Kenya

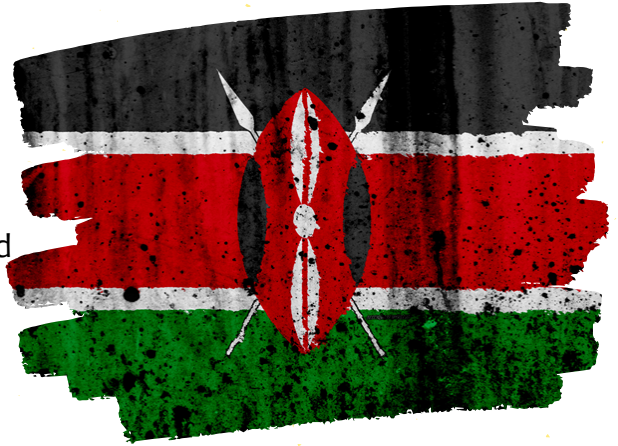
The adoption of Kenya's new constitution in 2010, which had a strong and progressive Bill of Rights brought hope to many sex and gender diverse persons in Kenya.

The Bill of rights protects all citizens under the provisions and principles of equality and non-discrimination.[5]

However attempts to decriminalise adult consensual same sex activity and relations proved futile when in May 2019 the High Court of Kenya upheld sections 162 and 165 of the penal code.[6]

Despite these unfair legal provisions and social attitudes, the context for ITGNC persons in Kenya is fairly more accommodating for ITGNC persons in comparison to other countries in the region as evidenced by some progressive judgements before the courts of law prior to May 2019[7].

Further, in 2019 Kenya became the first African country to recognize its intersex population through a census offering some hope for the official recognition of Intersex persons and communities in Kenya. Access to health services for ITGNC persons remains a challenge as services for sex and gender diverse persons are lumped under the clinically biased services for 'key populations'. This clinical classification of populations inadvertently excludes ITGNC persons that may not fit the Men who have sex with other Men (MSM) description of key populations. The legal context in Kenya is still not enabling for al ITGNC persons to easily make affirming legal changes denying ITGNC persons their right to self-determination and legal recognition under the law.



[5] Article 27. Constitution of Kenya (2010).

[6] <https://www.theeastafrican.co.ke/news/ea/Kenyan-court-declines-to-scrap-anti-gay-sex-law/4552908-5130126-vwhkp3z/index.html>

[7] Land mark ruling for Kenyan Transwoman

available at: <https://www.advocate.com/politics/transgender/2014/10/09/kenyan-trans-woman-wins-recognition-landmark-victory>

Rwanda

Unlike other countries in the region, Rwanda has no provisions that address or speak to adult same sex relations. However, sex and gender diverse persons remain largely marginalised and stigmatised[8].

Arbitrary arrests of LGBTI people have been reported in Rwanda on the basis of perceived sexual orientation using vagrancy laws that protect public order and decency. Issues of sexual orientation and gender identity are frowned upon by society in general and considered to be alien to the Rwandese culture (Sida, 2014).



However, attempts in 2009 to criminalise same sex relations in the revised penal code failed as these provisions were rejected when brought before parliament. The continued harassment of Transgender people in Rwanda is major barrier to the provision of services and the accessing of services for Transgender and other sex and gender diverse persons. The constitution of Rwanda protects all citizens from all forms of discrimination owing to lessons learnt from the Genocide. However, the continued intolerance for persons that do not conform to the hetero-norm puts the lives of many ITGNC persons and communities at risk with very little chances for their legal protection, access to affirming health services and ability to make affirming legal changes.

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[1] The Rights of LGBTI people in Rwanda (Sida, 2014) available at:
<https://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/lgbti/rights-of-lgbt-persons-rwanda.pdf>

Tanzania

The situation for sex and gender diverse persons in Tanzania has continued to deteriorate as state sanctioned crack downs, arrests and harassments have become the order of the day.

Same sex sexual acts and relations are criminalised in Tanzania. Sex and gender diverse persons are also considered as a taboo by society in general. Further, in a similar fashion to albinos, intersex people are considered to be an abnormality and a taboo in society posing a threat to their security and existence. The systematic clamping down on LGBTI persons and communities has led to many ITGNC persons fleeing the country for fear of their lives.



The government of Tanzania has further moved to introduce health policies that deny sexual minorities access to health services, which has resulted in adverse effects such as sexual minorities living with HIV not being able to pick up their medication from public health centres.[9] The state sanctioned and driven crack down on sexual minorities has adversely affected the health and legal outcomes for ITGNC persons in Tanzania. This means that ITGNC persons lack access to basic health services for fear of stigma, discrimination and even arrests if they attempted to seek health services. It follows that access to gender affirming health services like hormonal therapy is also not easily available and ITGNC are also not able to make affirming legal changes under the prevailing legal and policy framework.

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[1] Tanzania: Obstructions to LGBT Health, Rights
available at <https://www.hrw.org/news/2020/02/03/tanzania-obstructions-lgbt-health-rights>

Uganda

State sanctioned discrimination and harassment of sex and gender diverse persons in Uganda is rampant and has in most cases resulted in escalated violence against ITGNC persons.

Section 145 of the penal code criminalises “carnal knowledge against the order of nature” which attracts a prison term of seven (7) years. It further stipulates that “a male person to have carnal knowledge of him or her against the order of nature” is liable to life imprisonment.[10] In addition to the existing punitive laws, there have also been multiple attempts to further criminalise adult same sex sexual activity and relations.



The 2009 “Anti-Homosexuality Bill” is a notable grotesque attempt to further criminalise sex and gender diverse persons in Uganda. The Bill was passed in parliament in 2014 but was later repealed by the constitutional court. The hostile environment for ITGNC has compromised their access to legal and gender affirming health services and has most notably heightened their vulnerability to violence. ITGNC persons especially Trans women live in hiding, suppressing the expression of their gender identity when in public spaces. The few courageous ones also do not present often as they are afraid that they might be beaten up in public by people who do not understand them. Cases of illegal arrests and harassment from law enforcement officers and blackmail are also reportedly high (Sida, 2014). Despite this difficult environment, the ITGNC movement remains resilient in its pursuit of equality before the law as guaranteed by the constitution which espouses principles of equality and non-discrimination.

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[1] The Rights of LGBTI people in Uganda available

at: <https://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/lgbti/rights-of-lgbt-persons-uganda.pdf>



3. SUMMARY OF FINDINGS

3.1 REGIONAL

ITGNC persons are generally discriminated and stigmatised within the societies that they live in, However, different gender identities experience stigma and discrimination differently owing to the varied contexts that they live and the dominant perceptions in that context. For example, intersex people are considered a taboo in Tanzanian society whereas other societies in countries like Kenya are more empathetic as they consider this to be a biological condition with medical connotations. The table below shows gender identity findings from the study.

Table 1: Gender Identity Specific Data

	Trans women	Trans men	GNC	Intersex People
Sample Size	59	50	15	12
Completed tertiary education	25.9%	40.0%	60.0%	25.0%
Sex work as main source of income	52.5%	12.0%	6.7%	0.0%
Have no income	5.1%	24.0%	46.7%	58.3%
Live on the street	1.7%	6.0%	0.0%	0.0%
Live in shack/slum	10.2%	12.0%	0.0%	25.0%
Live in a hotel/lodging	0.0%	0.0%	13.3%	0.0%
Housed by an organization	8.5%	2.0%	0.0%	0.0%
Do not feel safe where they live	64.4%	48.0%	20.0%	58.3%
Do not have enough money to cover basic needs	88.1%	82.0%	60.0%	83.3%
Have health insurance	18.6%	24.0%	33.3%	16.7%
Have been denied health care because of their gender identity	67.8%	26.0%	20.0%	8.3%
Have had their bodies put on display by healthcare staff	50.8%	34.0%	6.7%	25.0%
Living with HIV	22.0%	6.0%	0.0%	16.7%
Engage in sex work	81.4%	22.0%	20.0%	33.3%
Tuck/Bind	69.5%	46.0%	40%	2.5%






On hormone replacement therapy	15.3%	10.0%	0.0%	0.0%
Had some form of gender affirming surgery	0.0%	0.0%	0.0%	8.3%
Currently undergoing mental health counselling	13.6%	18.0%	26.7%	25.0%
Have attempted suicide	64.4%	50.0%	33.3%	33.3%
Have contemplated suicide	64.4%	56.0%	46.7%	38.3%
Have been diagnosed with clinical anxiety	32.2%	32.0%	13.3%	25.0%
Have been diagnosed with clinical depression	39.0%	14.0%	33.3%	25.0%
Consume alcohol	79.7%	82.0%	93.3%	58.3%
Consume alcohol more than 3 times a week	28.8%	30.0%	20.0%	8.3%
Currently smoke	60.3%	49.0%	73.3%	37.0%
Have legally changed their name	8.5%	8.0%	0.0%	0.0%
Have legally changed gender marker	8.5%	4.0%	0.0%	0.0%
Have experienced violence by an intimate partner recently	67.8%	64.0%	66.7%	58.3%

The findings indicate that trans women are disproportionately affected by the lack of access to legal gender recognition and specific health services. Education levels for trans women were very low at 25.9% in comparison to trans men and GNC persons with levels at 40% and 60% respectively. Over 52.5% of trans women depended on sex work as a source of income with only 12.0% for Transmen and 6.7% for GNC persons. This reiterates the lack of income opportunities for trans women in the region.

It was also found that 88.1% of trans women do not have enough money to cover their basic needs. Trans men and intersex people also fell within the same range at 82% and 83.3% respectively. Further, 81% of Trans women also reported being engaged in sex work.

Trans women were also found to be most affected by stigma and discrimination in health settings with 67.8 reportedly denied health care because of the gender identity which is very high in comparison with 26% for trans men, 20% for GNC persons and 8.3% for intersex people. In a similar pattern 50.8% of trans women



reported having had their bodies put on public display by health care workers with 34% trans men, 6.7% GNC persons and 25% intersex people reporting the same. 22% of trans women reported **living with HIV**, 6% for trans men and 16.7% for intersex people.

Access to gender affirming health services was found to be very low in the region. Only 15.3% trans women and 10% trans men were reported to be on hormone replacement therapy. Only 8.3 intersex people were reported to have had some form of gender reassignment surgery with none reported for trans women and trans men.

Legal gender recognition remains a major challenge with only 8.5% of trans women and 8% of trans men reported to have had their names legally changed and only 8.5% trans women and 4% trans men reporting to have had had their gender marker changed.

Mental health was reported to be a huge challenge for all ITGNC persons with over 64.4% trans women, 50% trans men, 33.3% GNC persons and 33.3% intersex people reporting to have attempted suicide. In a similar manner 39.0% of trans women, 14% trans men 33.3% GNC persons and 25% intersex people reporting to have been diagnosed with clinical depression.

Safety and security indicators for ITGNC persons were reportedly highly negative with 64.4% trans women, 48.0% trans men, 20.0% GNC persons and 58.3% intersex people reporting that they did not feel safe where they lived. Levels of intimate partner violence were also reportedly high with 67.8% for trans women, 64.0% for trans men, 66.7% for GNC persons and 58.3% for intersex people.



3.2 COUNTRY SPECIFIC

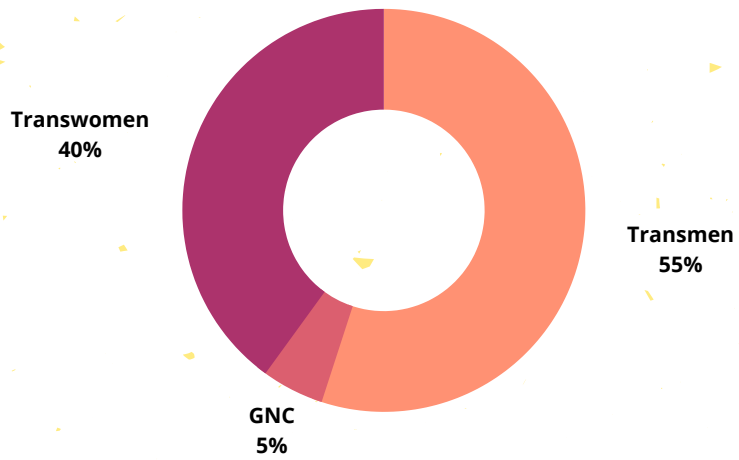
3.2.1 SOCIO-ECONOMIC DEMOGRAPHICS

GENDER IDENTITY

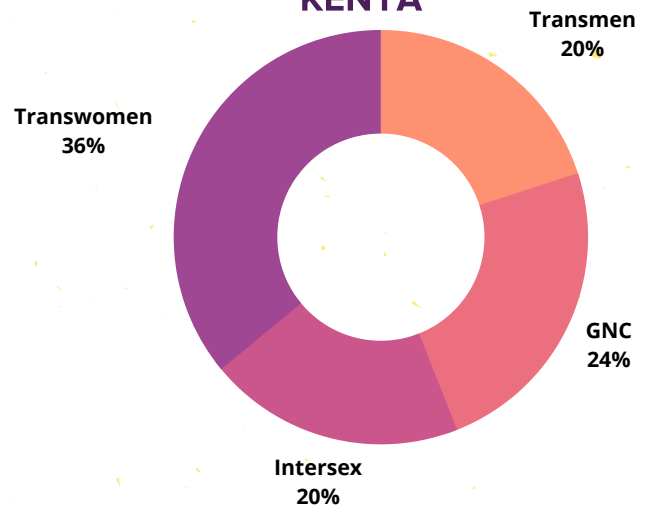
Knowing and acknowledging the gender identity and sexual orientation of clients is vital in providing client-centred and tailored health and legal services. Across the study, 59 participants identified as trans women (43.4%), 50 as trans men (36.8%), 15 as GNC (11%) and 12 as intersex (8.8%).

Intersex people were less visible across all the countries with Kenya reporting more ITGNC visibility compared to the rest of the countries. The distribution of gender identities in the specific study countries is illustrated below:

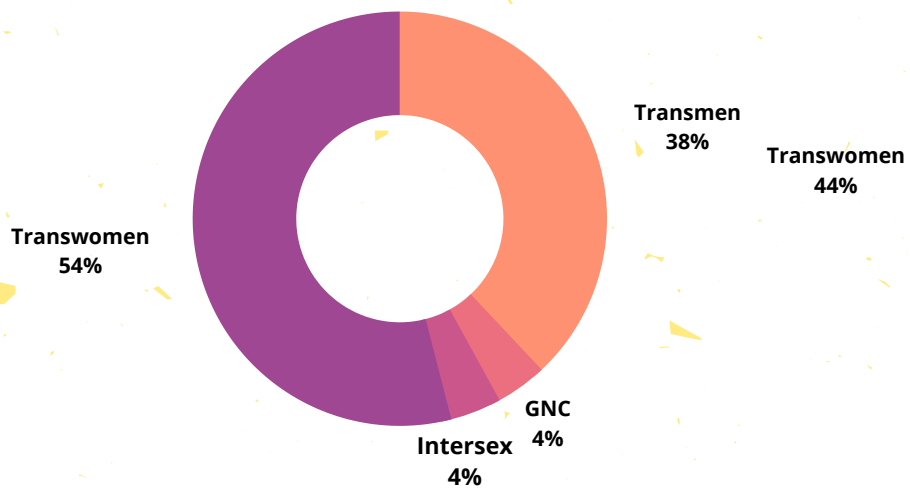
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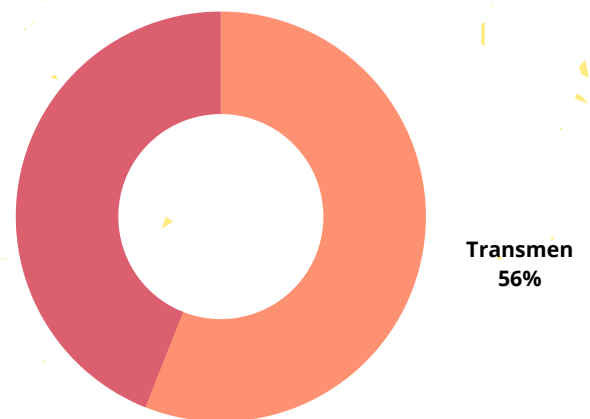
KENYA



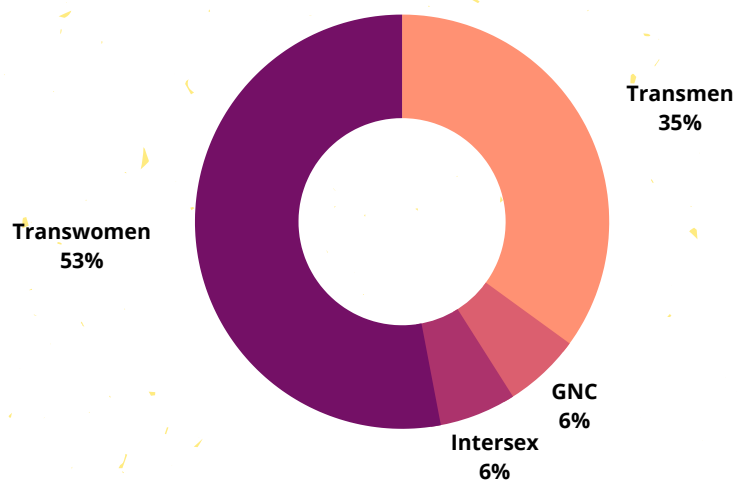
RWANDA



TANZANIA

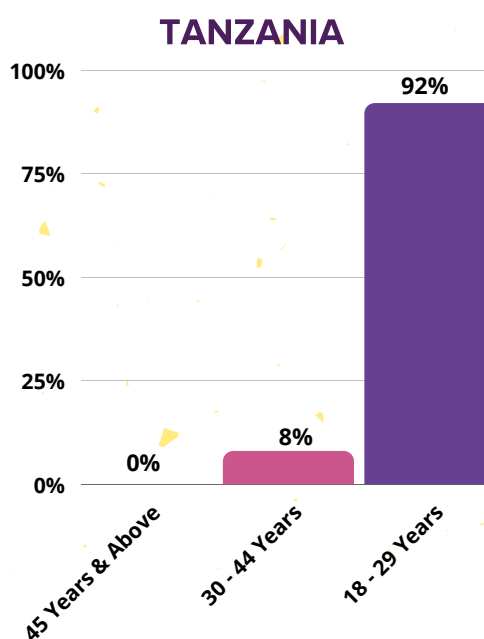
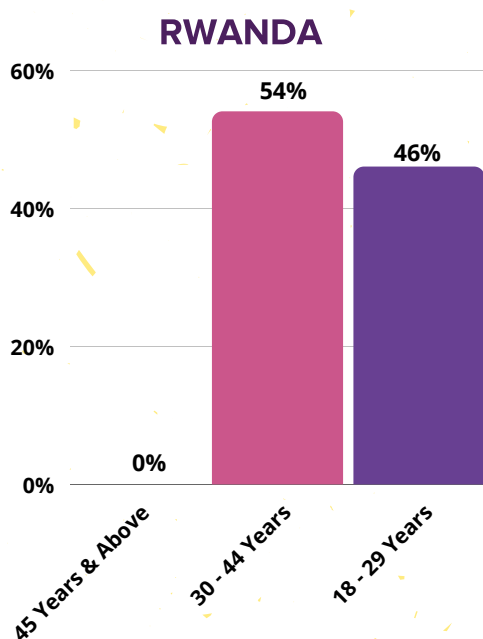
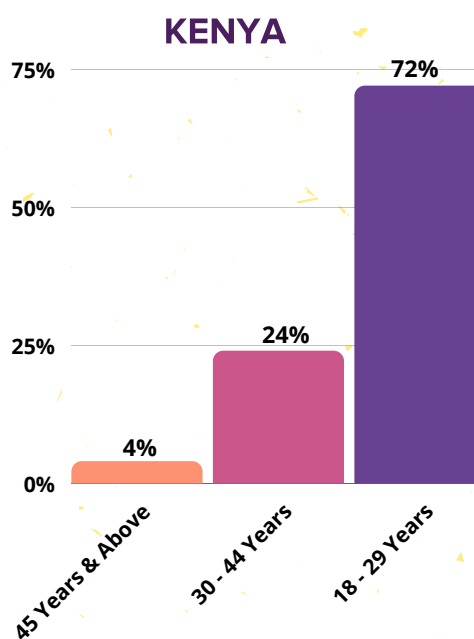
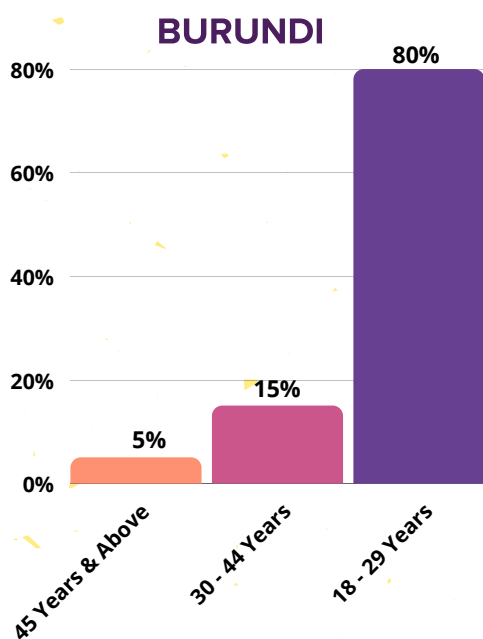


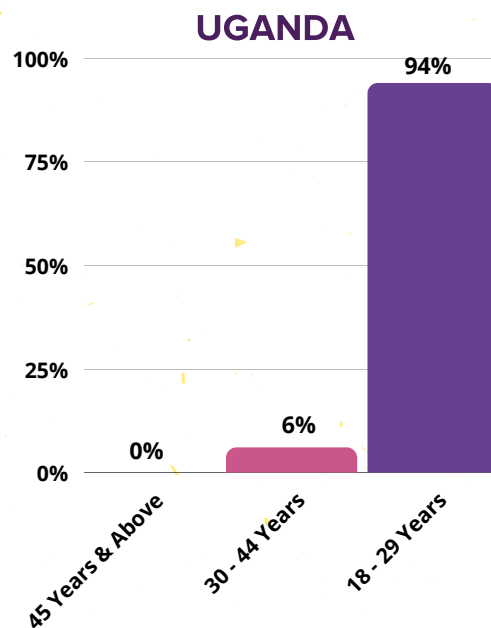
UGANDA



AGE

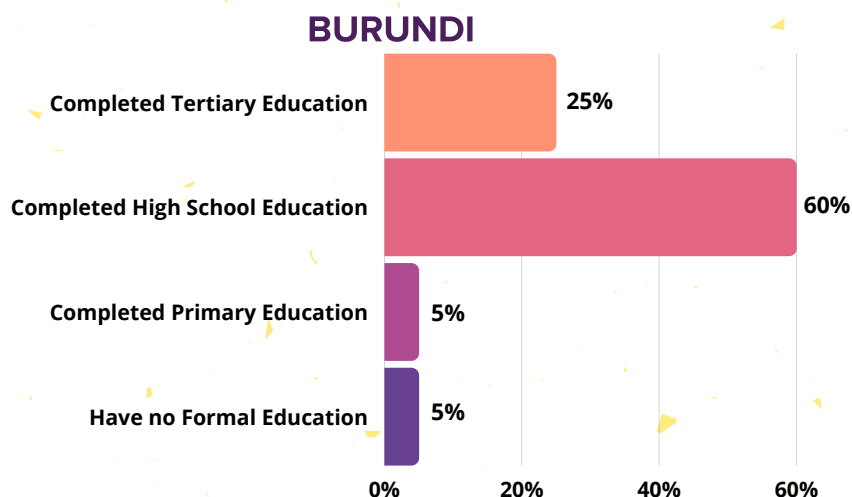
Age specific messaging and services is important in addressing the health care and legal needs of ITGNC persons. Only 2.2% of study participants were reported to be 45 years and above. The Majority were reported to be between 18 – 29 years (74.9%). This age range includes young people and adolescents who are at a critical developmental stage through which young people come to terms with issues to do with their sexuality and reproduction. The figures below illustrate the age demographic distribution across the five countries.

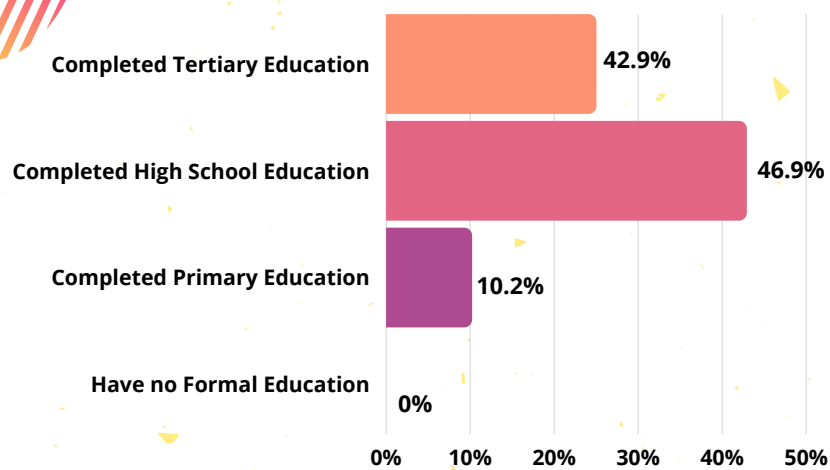




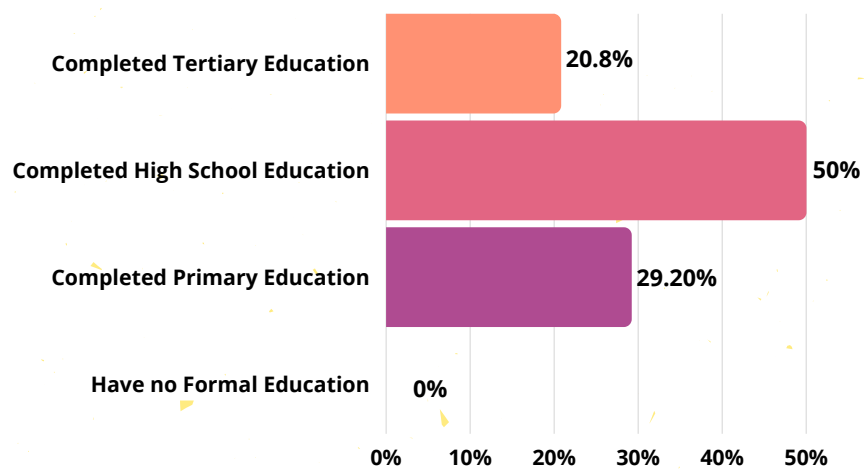
LEVEL OF EDUCATION ATTAINED

The level of education attainment has in recent years become increasingly recognised as a key social determinant of health (Blackmore & Kamp, 2009). While attaining some level of higher education can improve one's employment prospects, evidence shows that it also enables individuals especially those on the margins of society to make better and informed decisions regarding their personal health and wellbeing. Only 34.8% reported to have completed tertiary education with 11.9% reporting to have completed primary education only. This is quite low and could potentially reduce the health and legal outcomes for ITGNC persons across the region. The figures below show the levels of education attained per country:

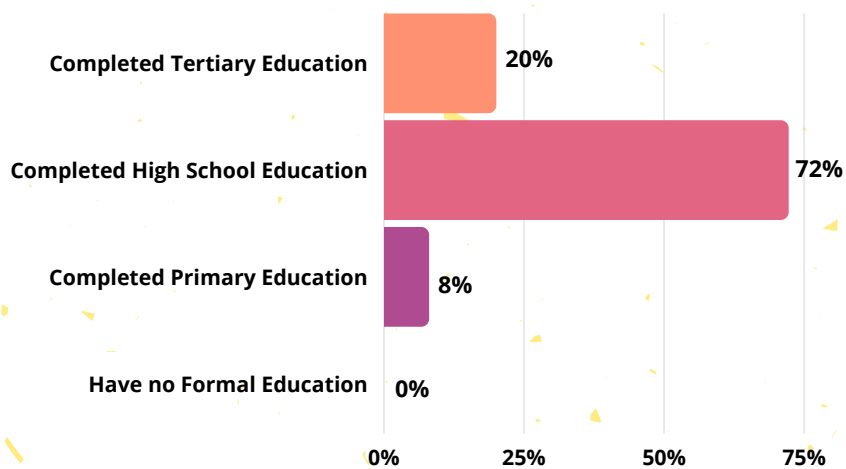




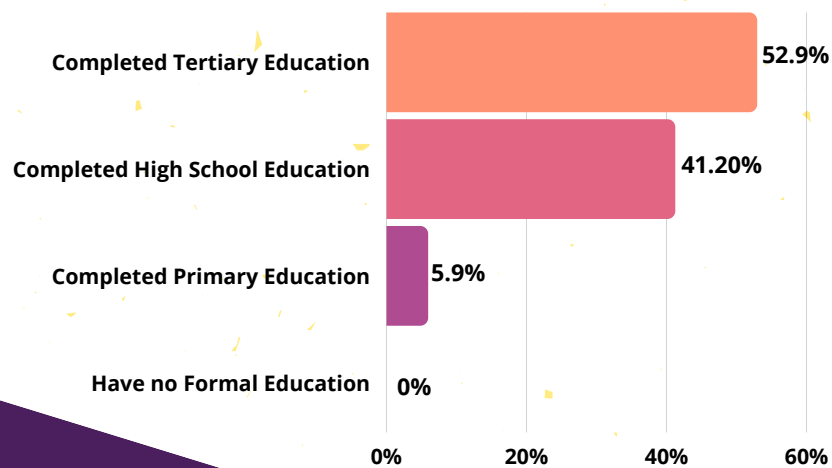
KENYA



RWANDA



TANZANIA

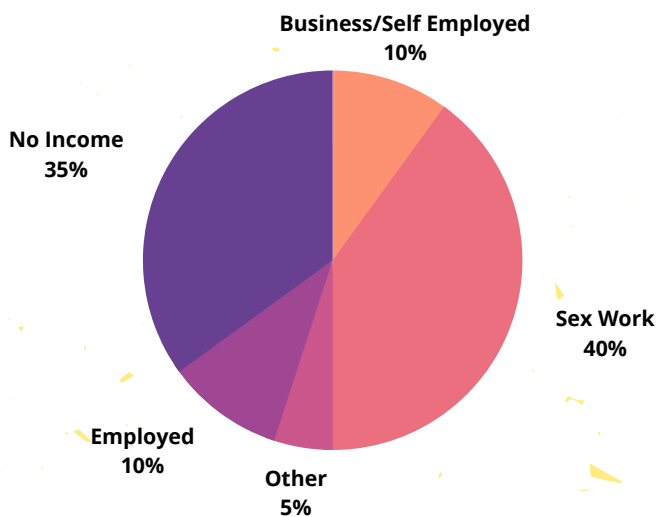


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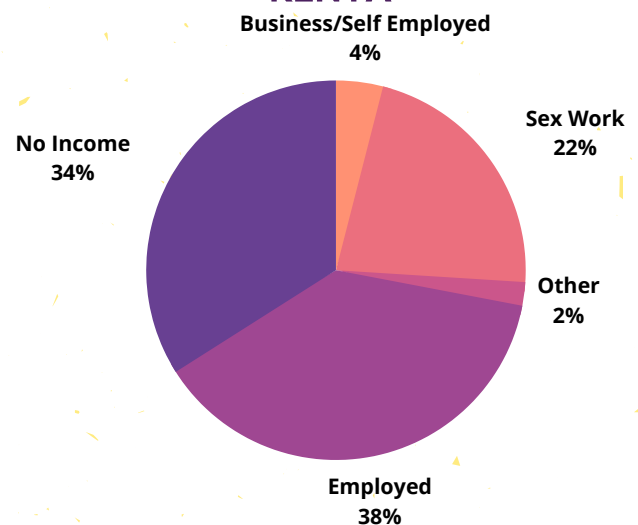
SOURCE OF INCOME

Lack of access to sustainable income is one of the major drivers of health inequalities for ITGNC persons globally (Zeeman et al., 2019). ITGNC persons are routinely and systematically excluded from employment opportunities which adversely reduces their access to income. According to the National Centre for Transgender Equality (2019) one in four transgender people have lost a job due to unfair bias. The resulting high levels of unemployment and subsequent poverty has forced ITGNC persons to resort to underground economies such as sex work to earn an income. Sex was reported as the major source of income with 27.9% ITGNC persons reporting sex work as their main source of income. The findings from five countries are illustrated below:

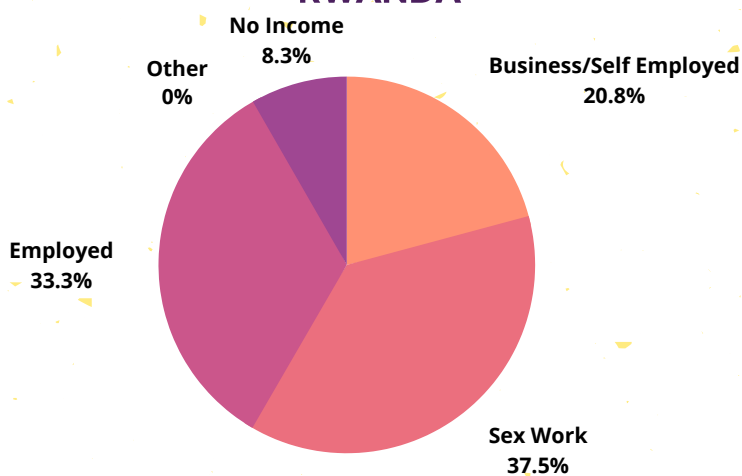
BURUNDI



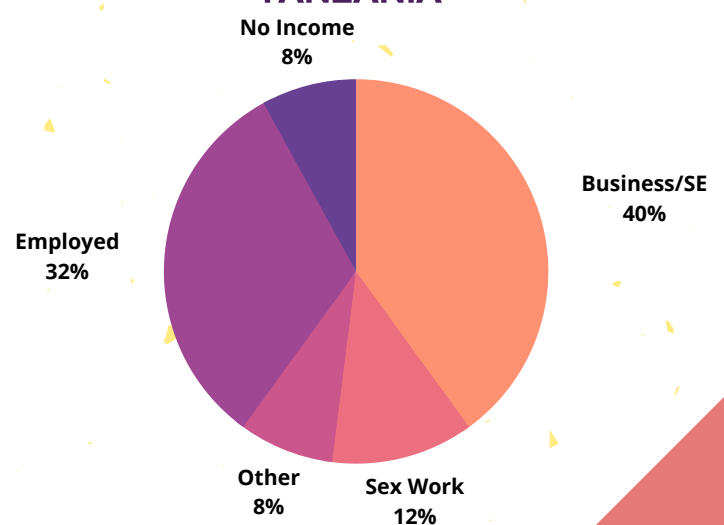
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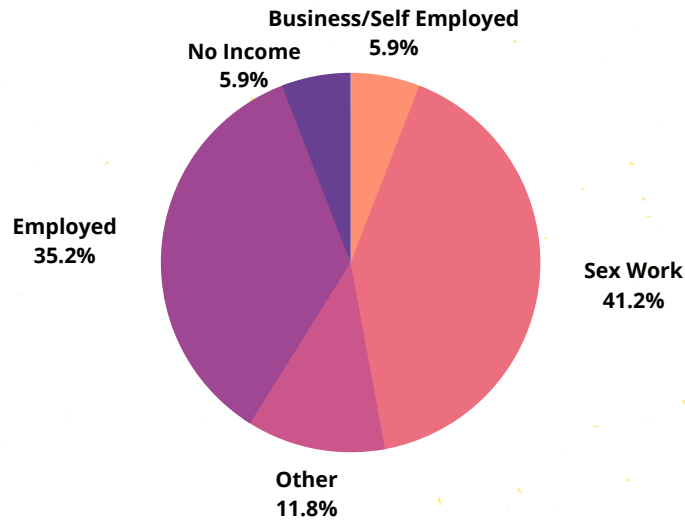
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TANZANIA



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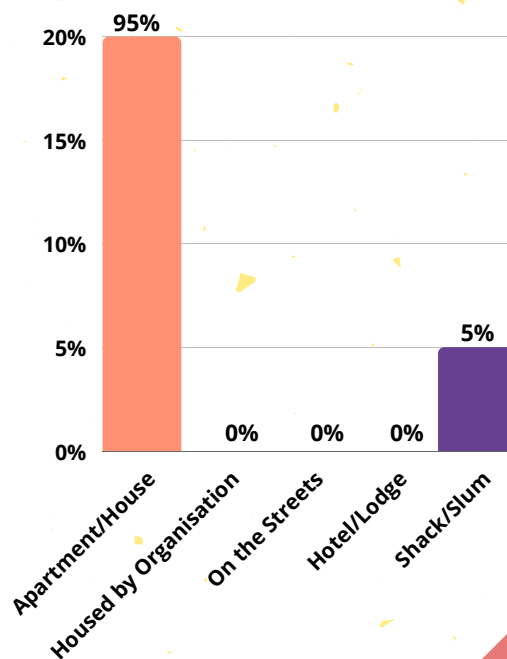


TYPE OF HOUSING/RESIDENCE

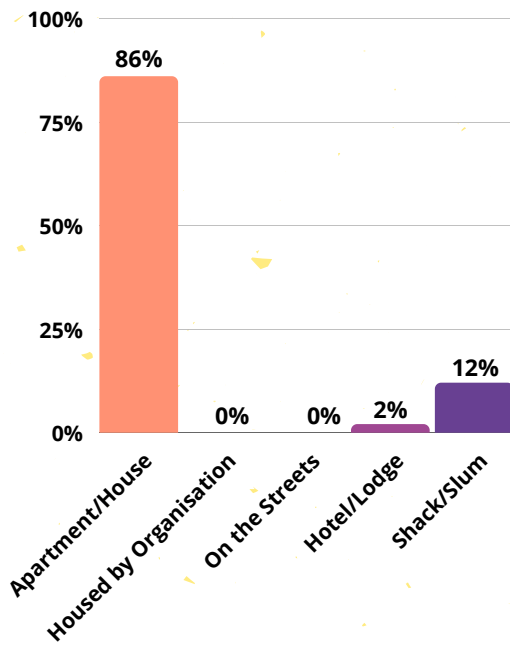
The widespread social exclusion of ITGNC people in East Africa has translated to limited to no access to social services such as decent accommodation and housing. Reported incidences of unfair and forced evictions of ITGNC persons on the basis of their gender identity, expression or sex characteristics are common in all the countries across the region. The lack of access to decent housing negatively affects the health and wellbeing of ITGNC persons compromising their safety and security and general health due to poor living and sanitation conditions. In Burundi, Kenya, Rwanda, Tanzania and Uganda living in an apartment/house was the most reported form of housing (80.1%). 11% of study participants reported to be living in shacks/slums and 2.9% of study participants reported to be living on the street. Over 4% study participants in Rwanda, Tanzania and Uganda reported being housed by an organisation, indicating efforts being made by local organisations to address the lack of access to decent housing for ITGNC people.

This is illustrated in the charts below:

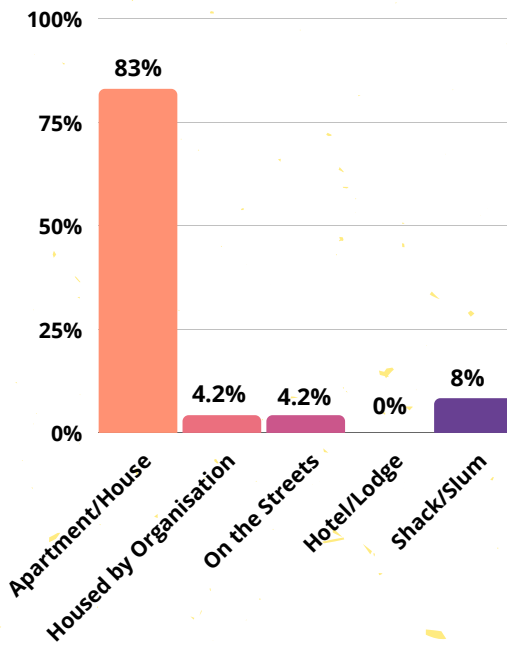
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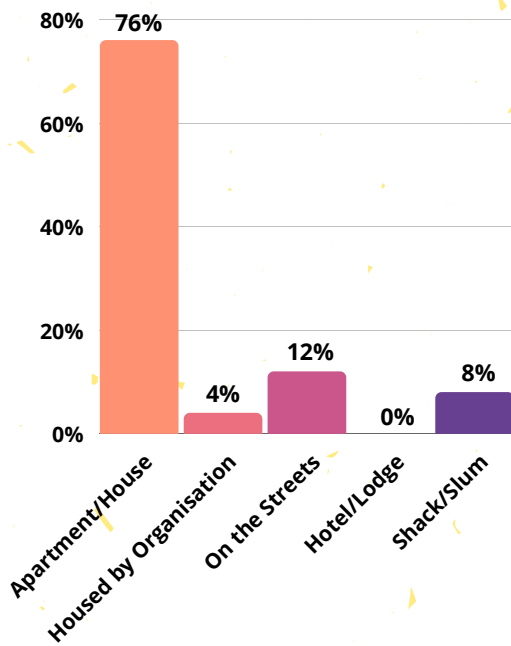
KENYA



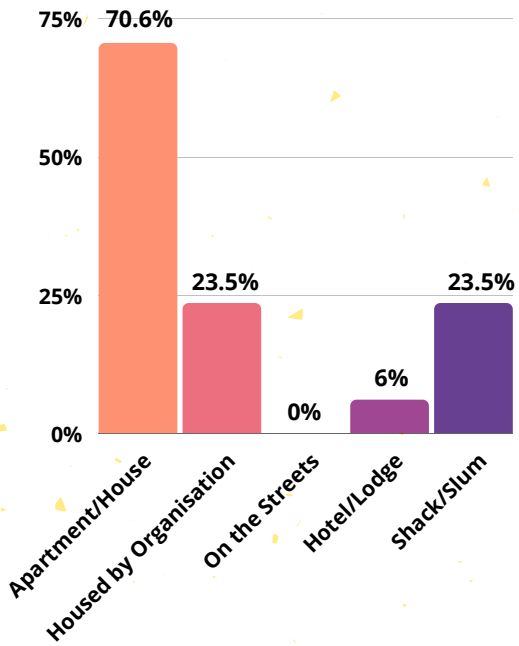
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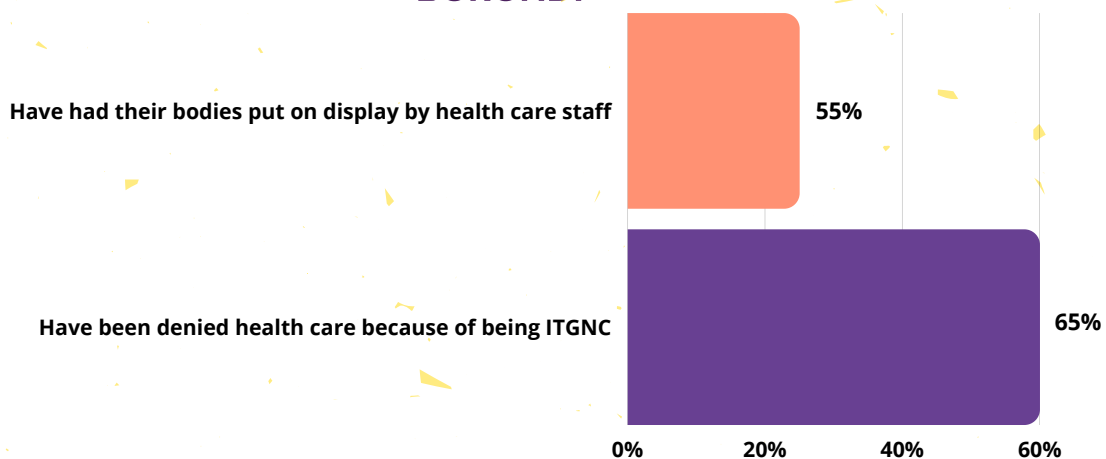


3.2.2 EMERGING THEMES

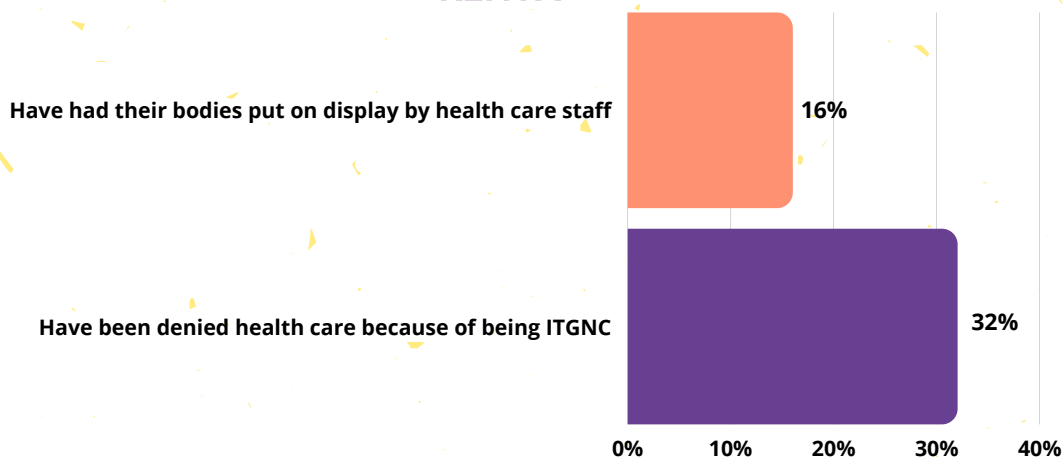
STIGMA AND DISCRIMINATION IN HEALTH SETTINGS

Discrimination and stigma is one of the major determining factors for ITGNC persons in considering whether to access health services or not. ITGNC persons constantly face discrimination in health settings and with many reporting to have been denied equal treatment in health care settings (Jaffee, Shires & Stroumsa, 2016). 58.1% of study participants reported to have been denied healthcare because of their gender identity, expression or sex characteristics. The highest numbers were seen in Burundi with 65% reporting to have been denied health care because of being ITGNC and 55% reporting to have had their bodies put on display by health care staff. The country specific data is illustrated below:

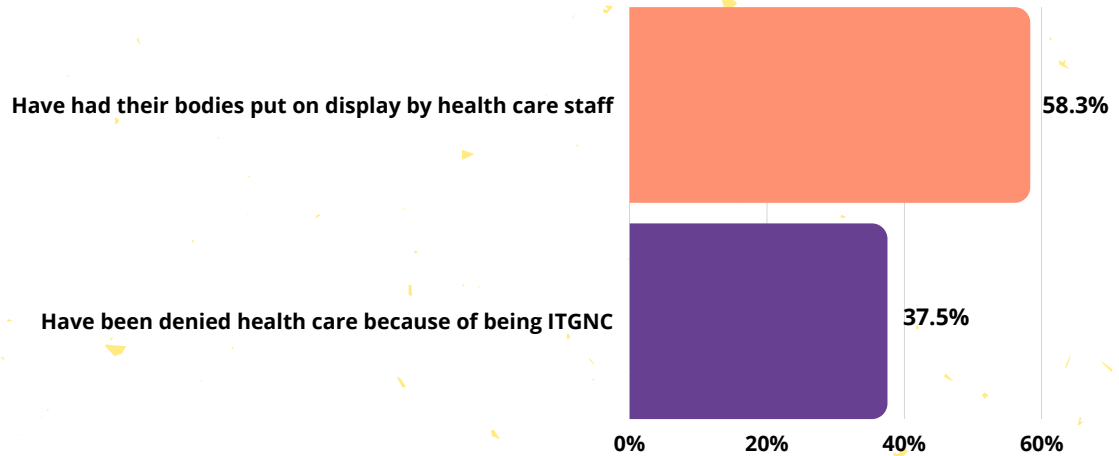
BURUNDI



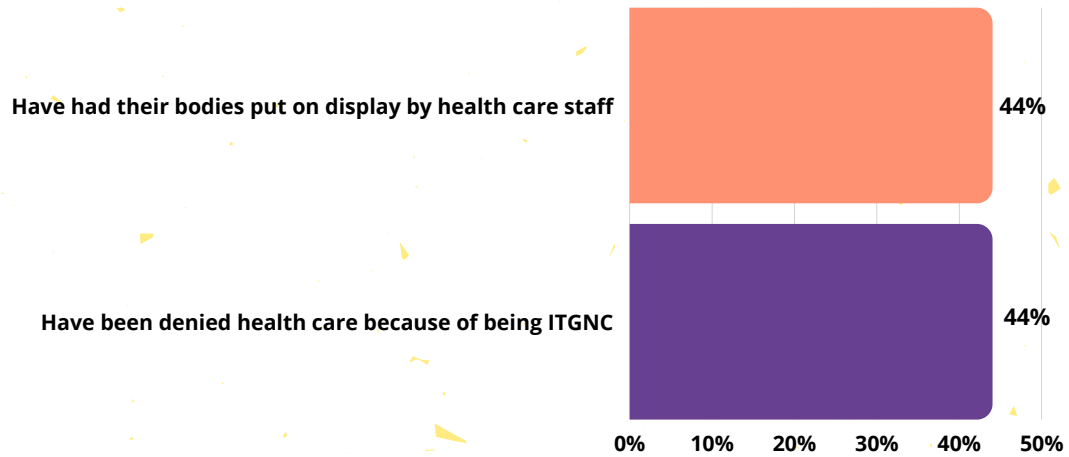
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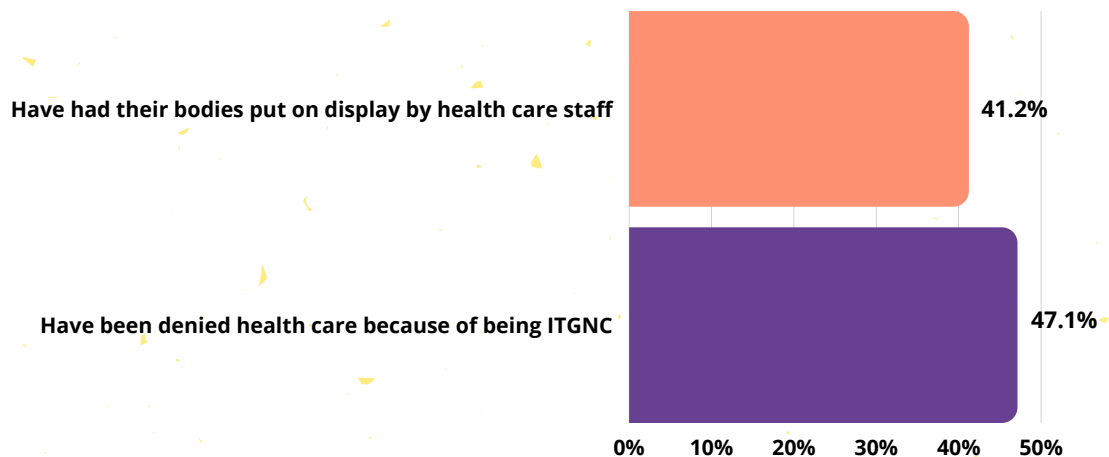
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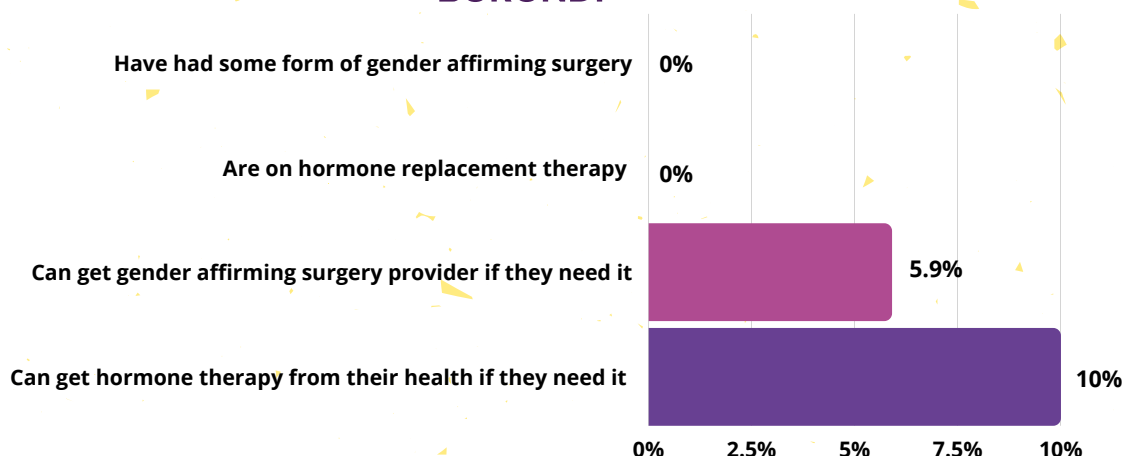
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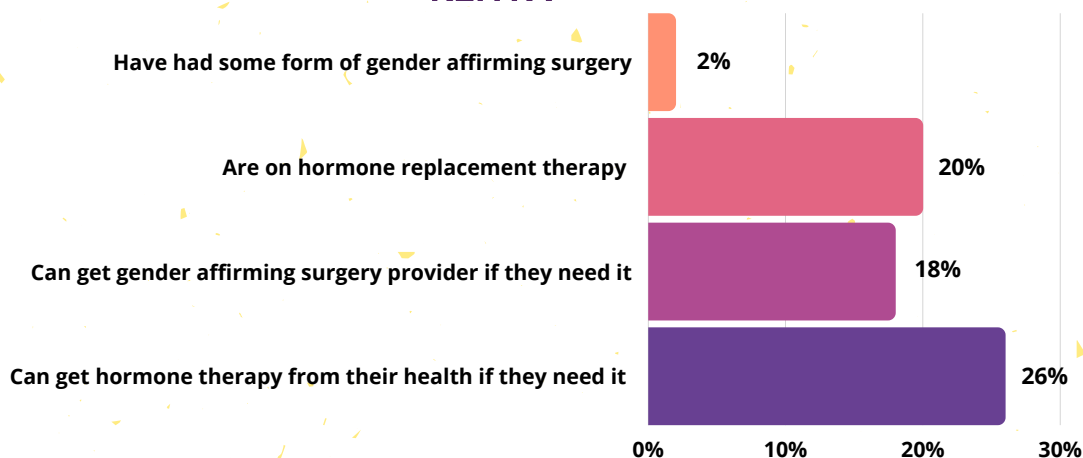
ACCESS TO HORMONAL THERAPY AND GENDER AFFIRMING SURGERY

Evidence has shown that hormonal therapy and gender affirming surgery is important in determining the quality of life and wellbeing of ITGNC persons (El-Hadi et al. 2018). However very few ITGNC persons in East Africa have access to hormonal therapy and gender affirming surgery due to various factors that include availability, accessibility, affordability and stigma and discrimination. Only 14.7% of ITGNC persons reported that they could access hormone therapy when they needed it with 90.4% reporting that they were not on hormone therapy. Similarly, only 8.8% of ITGNC persons reported that they could access gender affirming surgery when they needed it. These figures are significantly low considering the role that hormonal therapy and gender affirming surgery plays in uplifting and affirming the lives of ITGNC persons. The country specific data is illustrated below:

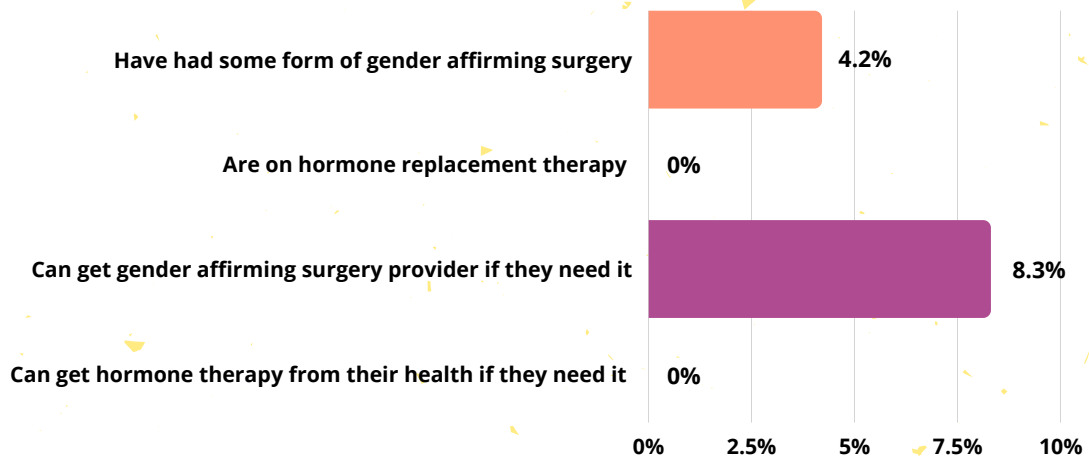
BURUNDI



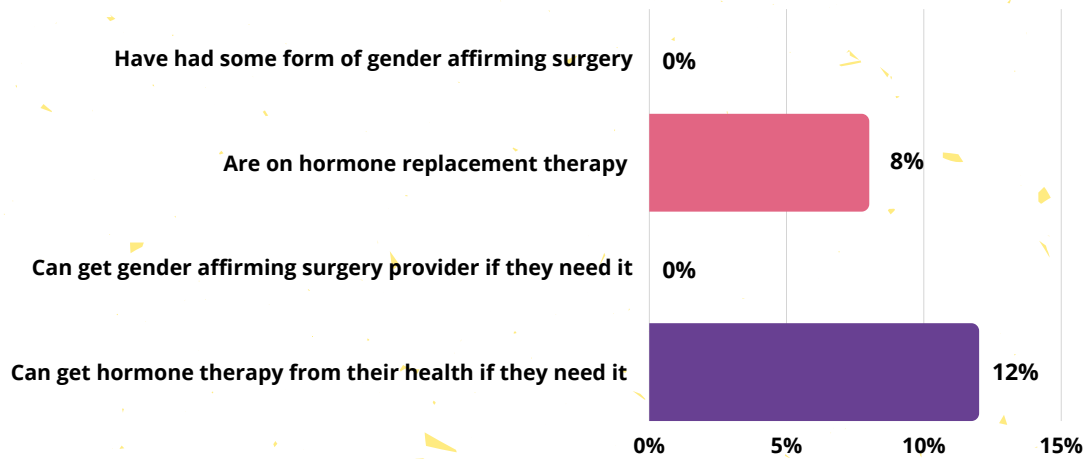
KENYA



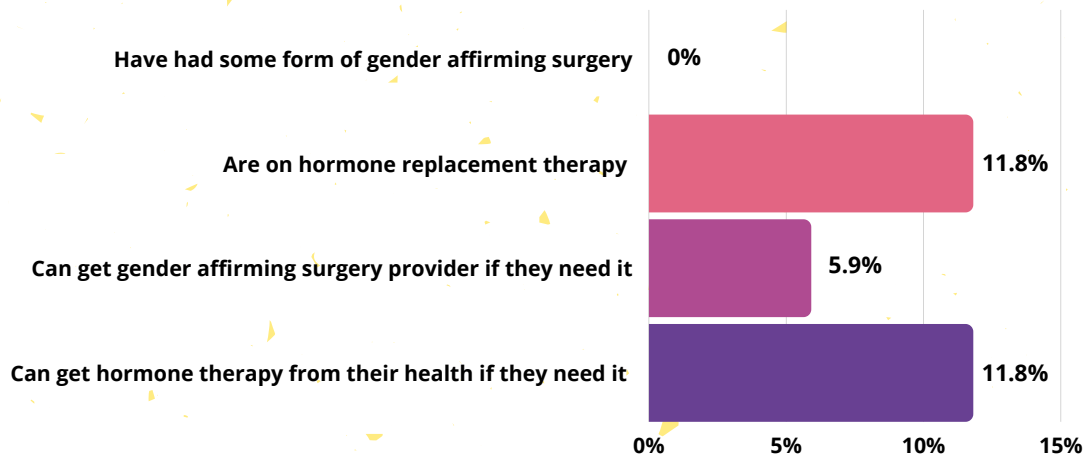
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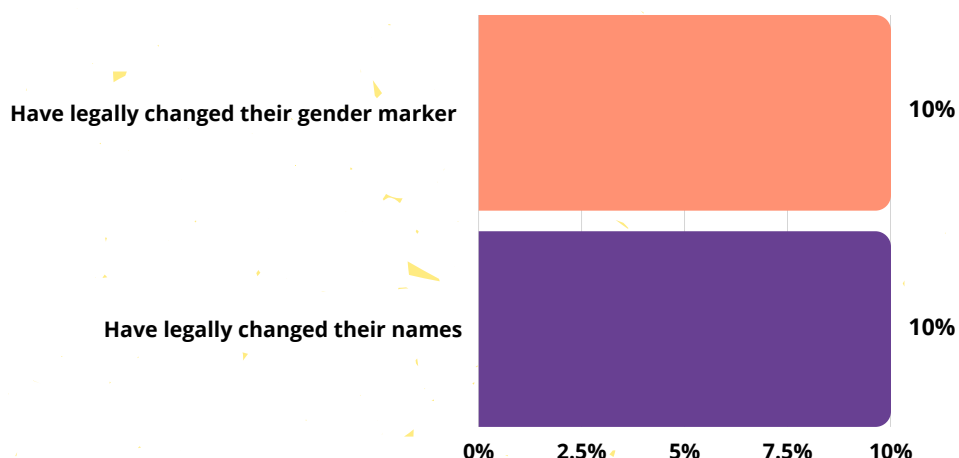
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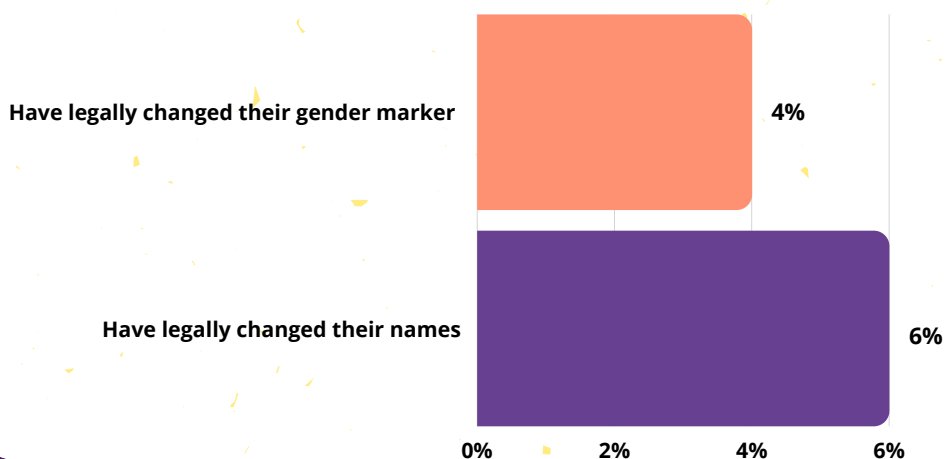
ABILITY TO MAKE AFFIRMING LEGAL CHANGES

ITGNC person in East Africa face multiple barriers to being able to make affirming legal changes which includes having gender – concordant identity documents (IDs). The inability to make affirming legal changes has been found to have significant impact on the mental health and wellbeing of ITGNC persons with many experiencing shame, stigma, discrimination, and a sense of being denied self-identification. Studies have shown that having an ID that reflects one's preferred name and gender marker can be associated with reduced psychological distress and suicide risk (Scheim, Perez-Brumer & Bauer, 2020). The ability to make affirming legal changes was found to be generally very low in all the countries with only 6.6% of ITGNC persons reporting to have legally changed their names and 5.1% reporting to have legally changed their gender marker. Details are illustrated below:

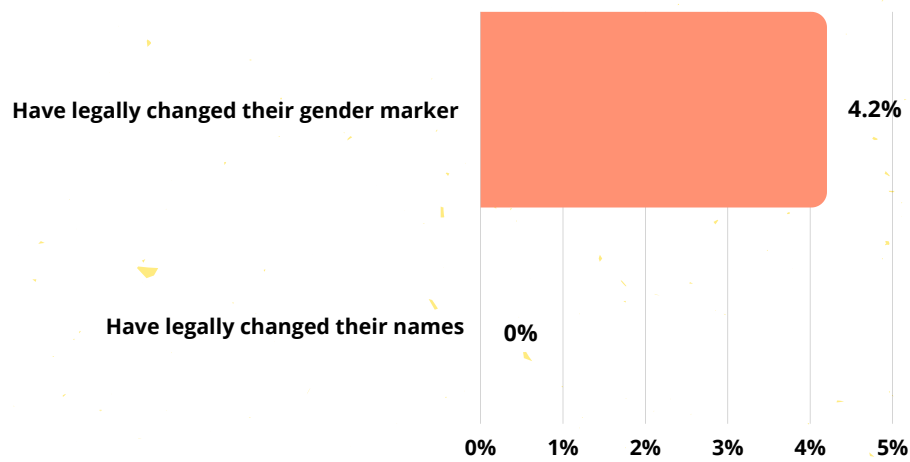
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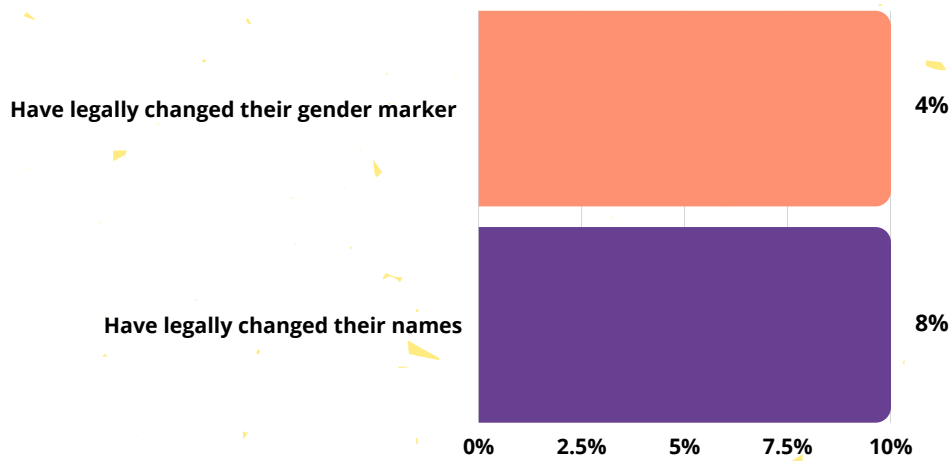
KENYA



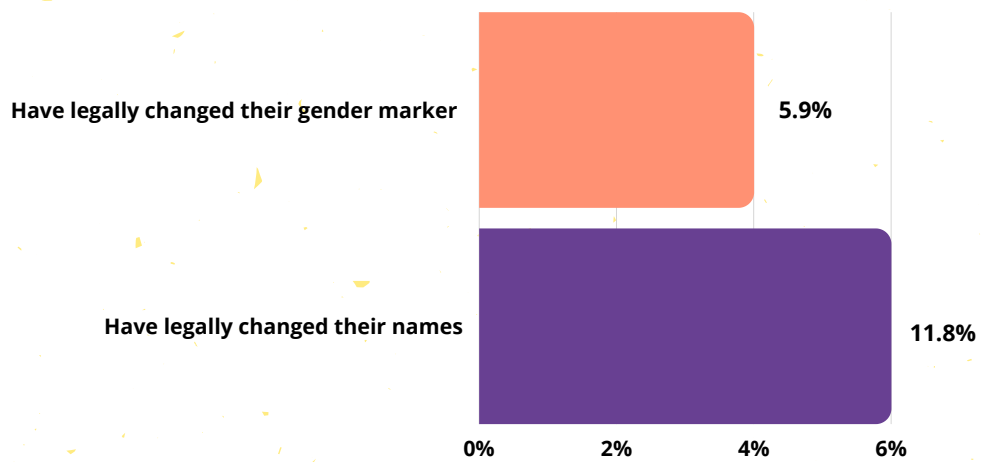
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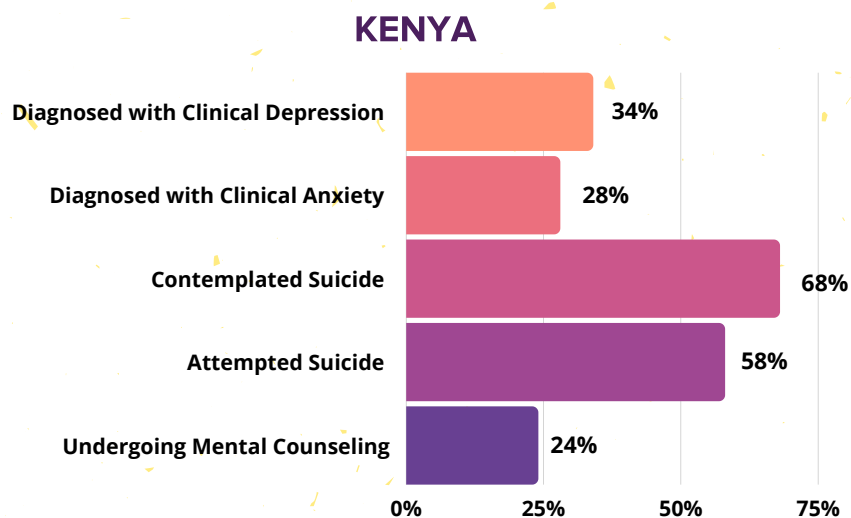
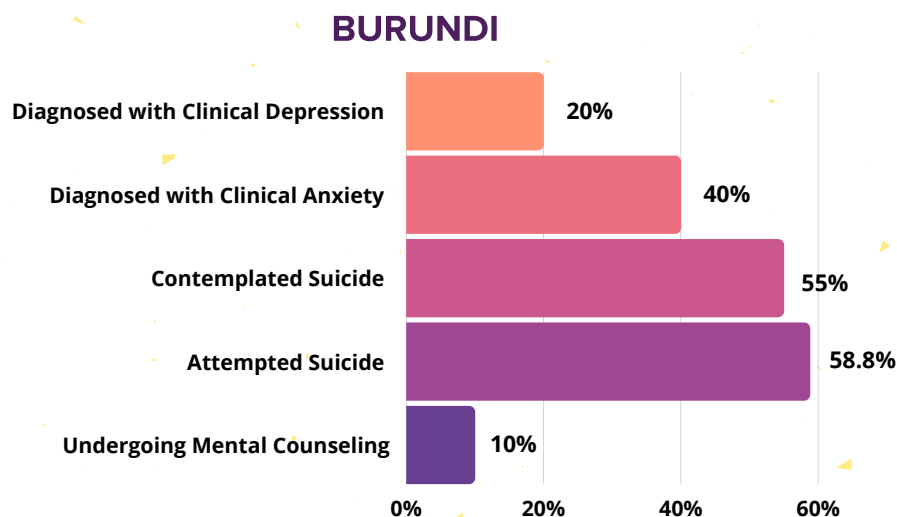
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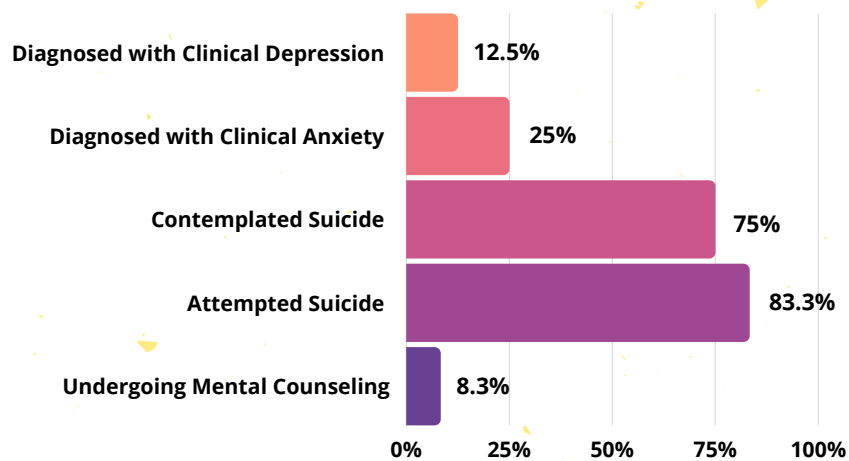
MENTAL HEALTH

Elevated rates of psychopathology have been identified in studies investigating the prevalence of psychiatric disorders among trans persons (Dhejne, 2016). ITGNC persons in East Africa face many mental health challenges due to entrenched and institutionalised prejudice, stigma and discrimination within the general society and social services. This negative context has deprived ITGNC persons in the region an affirming and fulfilling quality of life which has consequently adversely affected their mental health and wellbeing.

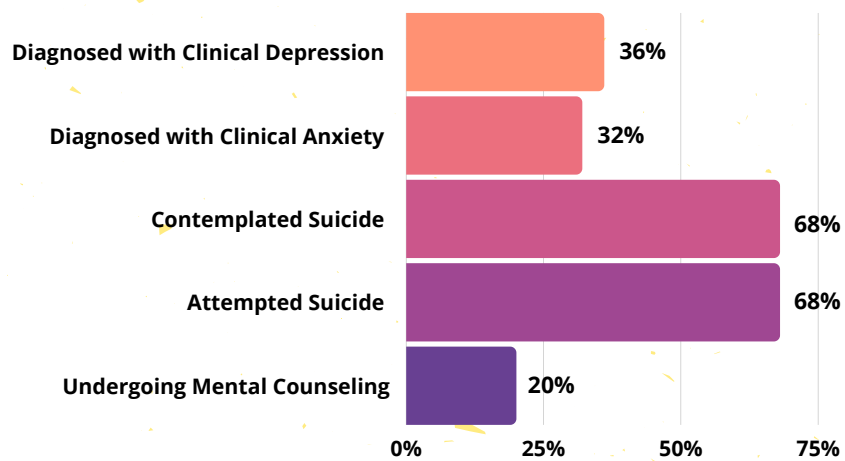
What is alarming is that 52.9% of ITGNC persons reported to have attempted suicide with 58.8% reporting to have thought about committing suicide. The country specific data is illustrated below:



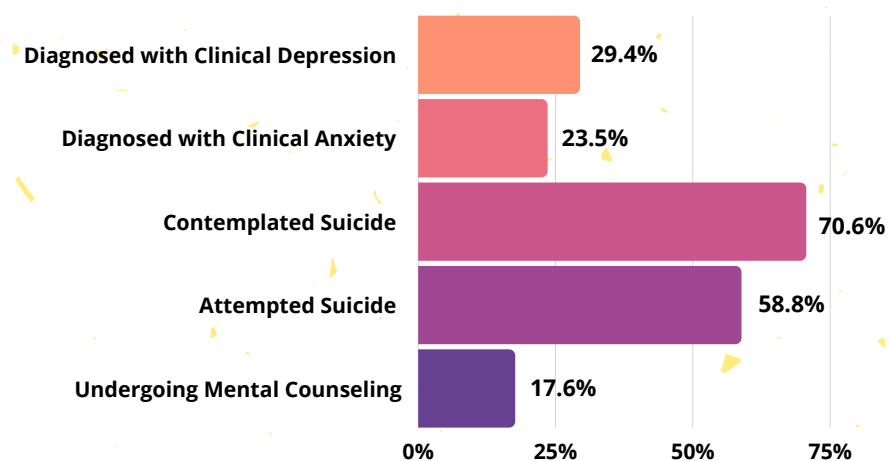
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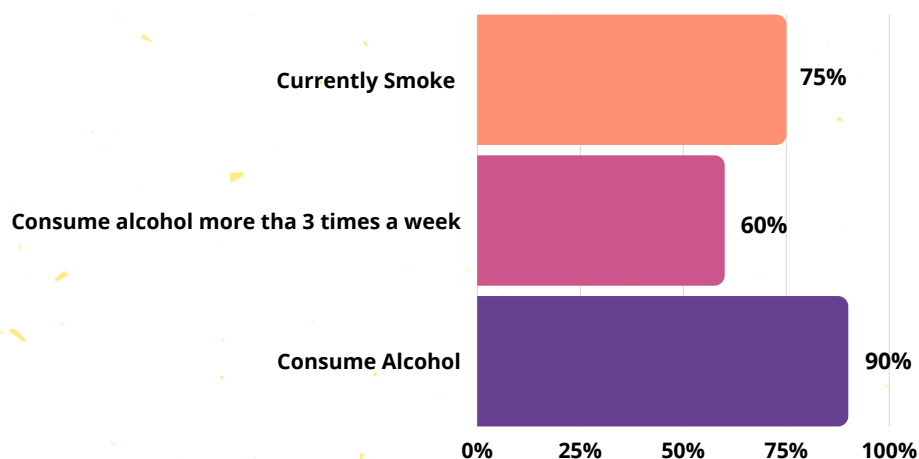
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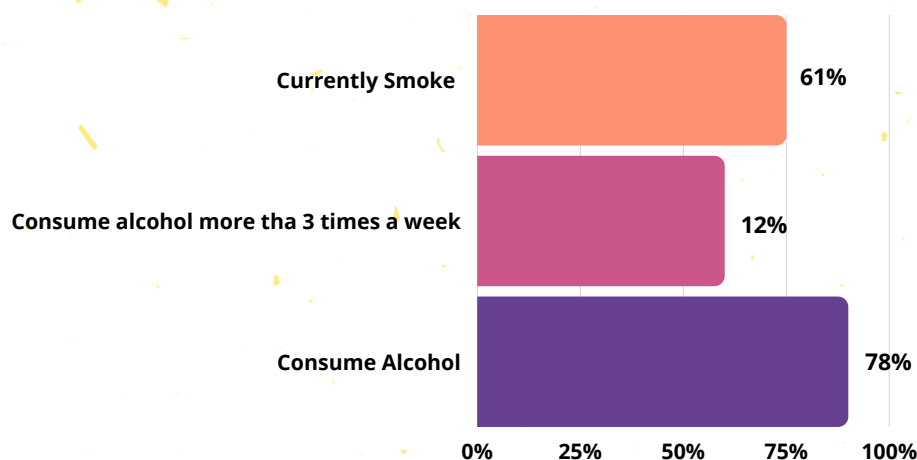
CONSUMPTION OF ALCOHOL AND OTHER SOCIAL DRUGS

Recent studies have indicated that alcohol and substance abuse is a growing problem among sex and gender diverse people including ITGNC persons (Jordan, 2000). Feeling marginalized by society, seeking relief for feelings of depression and isolation and desiring alleviation of the chronic stress associated with being stigmatized both externally and internally have been identified as some of the key drivers for alcohol and substance abuse among sex and gender diverse people (Jordan, 2000). Over 80% of ITGNC persons reported to have been consuming alcohol, an extremely high statistic as compared to figures from the general population. The country specific data is illustrated below:

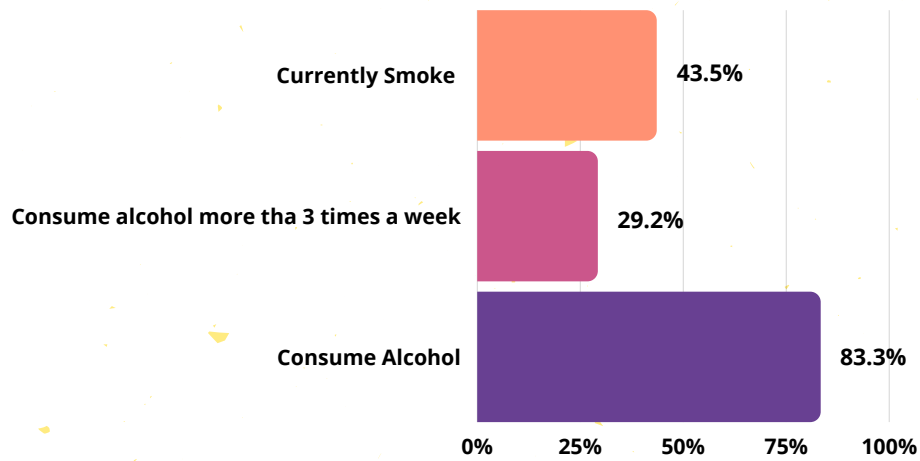
BURUNDI



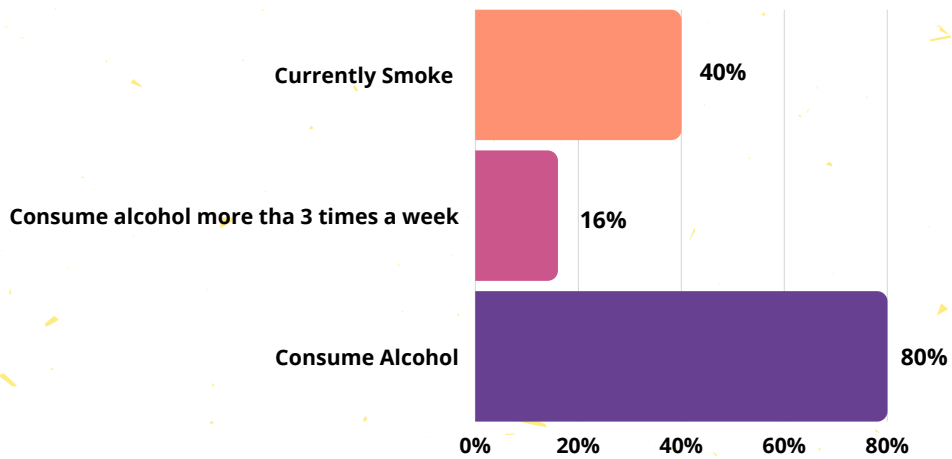
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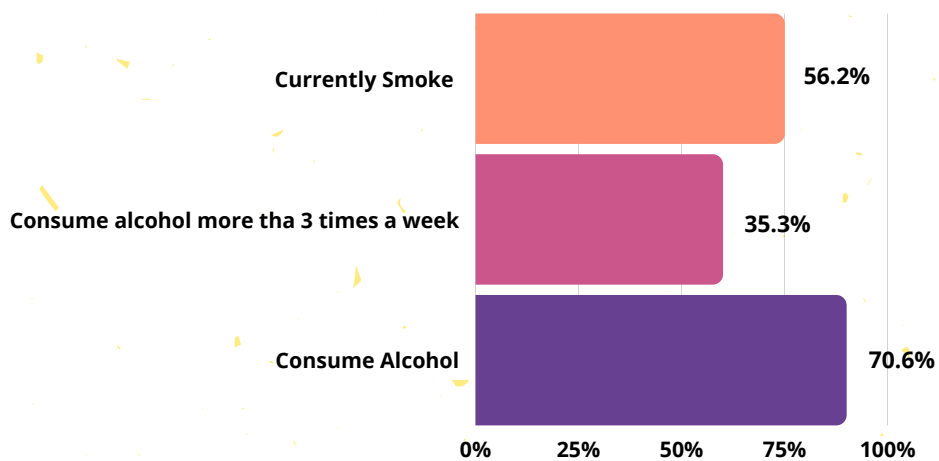
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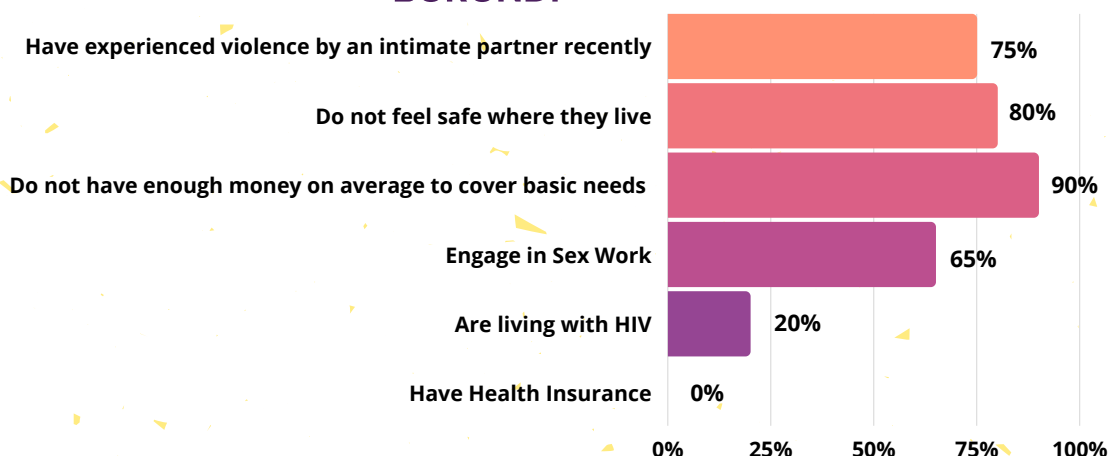
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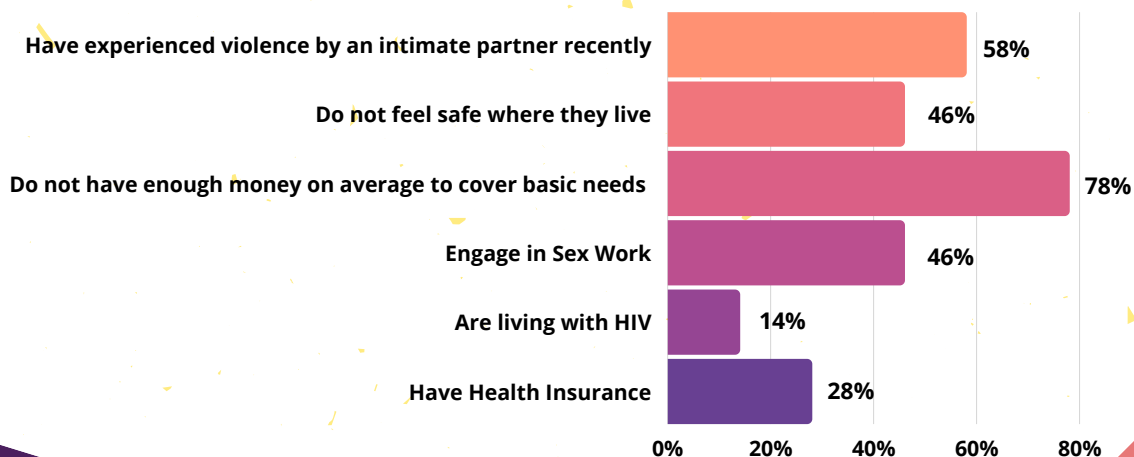
ACCESS TO HEALTH; HIV STATUS; SEX WORK; ACCESS TO FINANCE; SAFETY & SECURITY; AND SEXUAL & GENDER BASED VIOLENCE (SGBV)

ITGNC persons usually find themselves on the margins of society and structurally excluded from participating in socio-economic activities. This in turn means that many ITGNC persons are socio-economically deprived and experience various forms of lack and poverty (Jebin, 2018). The socio-economic indicators for ITGNC persons in East Africa are generally poor, with many ITGNC persons living a deprived quality of life due to the high levels of stigma and discrimination. Only 22.1% of ITGNC persons were reported to have access to health insurance, even though 13.2% of ITGNC persons were reported to be living with HIV. Over 84% of ITGNC persons were reported to not have enough money to cover their basic needs with 48.5% reported to be engaging in sex work. Safety and security indicators were also poor with over 52% of ITGNC persons reporting as not feeling safe where they currently live and over 65% ITGNC persons reporting to have experienced intimate partner violence. Country specific details are illustrated below:

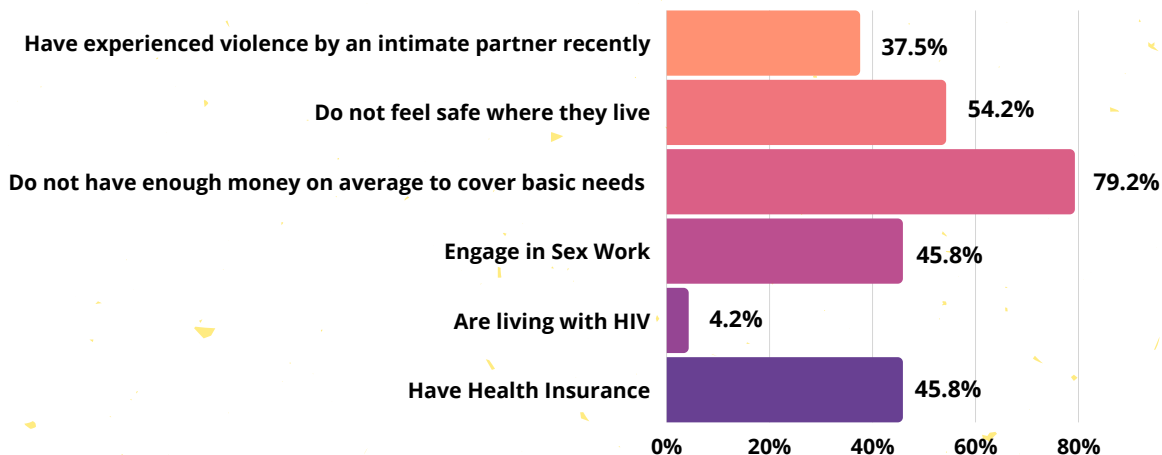
BURUNDI



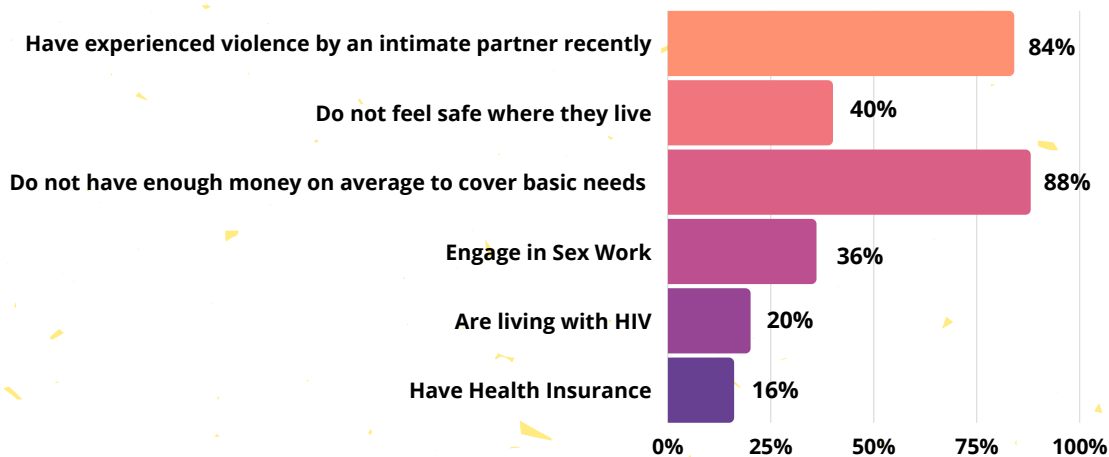
KENYA



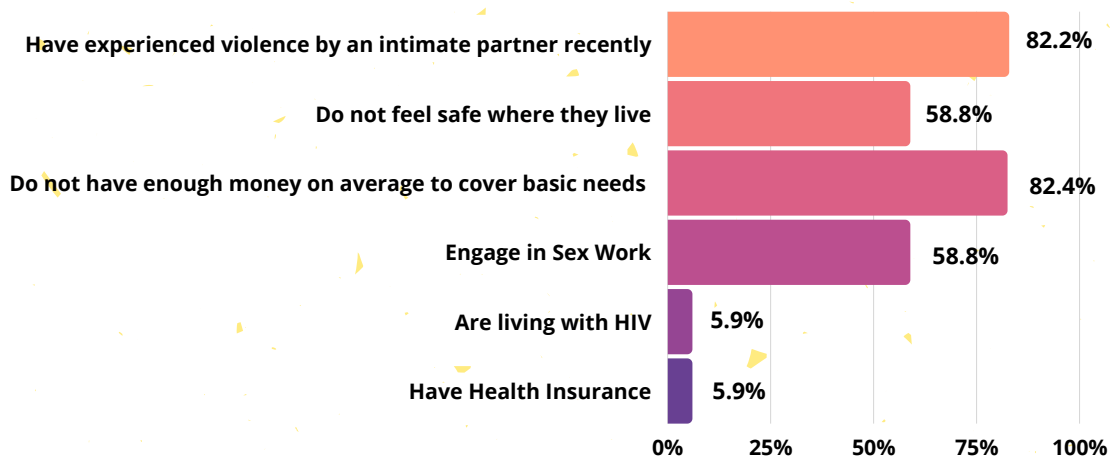
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TANZANIA



UGANDA



4. KEY OBSERVATIONS FROM THE FIELD



REGIONAL

- Low capacity of professional skills caused by discontinued education or lack of funds to proceed with education.
- Little to no funding to ITGNC organizations, which hindered their ability to bring about the desired change in their community and the lives of ITGNC people.
- The economic status of the ITGNC community was low, resulting in homelessness, joblessness, poor health, and poor access to other social services.
- Cases of discrimination were high and rampant. ITGNC people live in constant fear of being harassed, being chased away from their homes and being ostracized by the communities where they come from etc.
- Compromised safety and security was a major challenge faced in all the countries especially Tanzania (Dar es Salaam) where the current situation was hostile to the ITGNC community.
- There is no provision for specific health care that caters to the needs of ITGNC people e.g. hormonal replacement therapy (HRT), cancer screenings, mammograms etc.
- The ITGNC community has a serious lack of or limited understanding on ITGNC-specific healthcare such as HRT. This also results in misinformation about the benefits/side-effects of HRT.

NATIONAL

BURUNDI



- ITGNC persons lack appropriate information on gender affirming care such as hormonal replacement therapy.
- Safety and security is a major issue that affects the ITGNC community in Burundi.
- Economic status of the ITGNC persons is still low.
- There is only one trans organization in Burundi.
- ITGNC persons are still embedded within in the LGBQ community and organizing, especially in accessing health & HIV services.

KENYA



- ITGNC people in Kenya can legally change their names on their national identity cards. However, the process is difficult and ITGNC people face delays in processing and approving their name change.
- Education levels of ITGNC people are still low compared to the general population.
- Access to ITGNC-specific healthcare is almost non-existent. ITGNC organisations have a referral system to appropriate doctors such as endocrinologists, psychologists, psychiatrists and surgeons but these doctors provide services on a case by case basis and only privately.
- Limited funding to ITGNC groups – especially new and upcoming groups. This hinders the ability to bring about change in the community and improve the lives of ITGNC people.
- Economic status of the ITGNC community is low, this means homelessness, joblessness, poor health, and being low class in the society.
- ITGNC people are still discriminated against in all the cities.

NATIONAL

Key observations

- ITGNC people can only access general healthcare & HIV services at MSM or SW clinics. This is due to high levels of discrimination that they face when trying to access these services at mainstream service providers and especially government hospitals.
- Religion plays a big role in Kenya and many people discriminate against ITGNC persons because of their beliefs.

RWANDA



- Education levels of ITGNC persons are low.
- Little to no funding to ITGNC specific organizing.
- Trans people still face harassment and discrimination.
- Economic status of the ITGNC persons is very low.

TANZANIA



- Safety and security is a major concern for the ITGNC community in Tanzania
- There are several trans men who take hormonal replacement therapy but very few trans women – this could be as a result of the effects of patriarchy and religion, as well as a serious lack of awareness of hormone replacement therapy.
- Little funding available for ITGNC specific organizing
- Discrimination in workplace which makes ITGNC persons to either start their own businesses or stay unemployed for fear discrimination.

NATIONAL

UGANDA



Key observations

- Education levels are still low for ITGNC persons.
- Little knowledge on hormonal replacement therapy.
- Economic status of ITGNC persons is quite low
- ITGNC persons still face discrimination from family and society in general.
- There is resilience in the ITGNC community despite the challenging context.

5. RECOMMENDATIONS

A. Governments and the State: should end all forms of arbitrary arrests, harassments and crack downs on ITGNC persons through its law enforcement agencies. Further, governments should adhere to all non-discrimination provisions in their national constitutions and the international and regional human rights frameworks that they have signed up to. Governments should also ensure that social services including education and health are ITGNC inclusive and protective.

B. Civil Society Organisations (CSOs): should design and implement programmes that are responsive and specifically target the diversity of identities within the broad spectrum of the ITGNC community. CSOs should further advocate for the inclusion of ITGNC persons in all spheres of social and economic activity and implement socio-economic empowerment programmes aimed at improving the socio-economic and income status of ITGNC persons. CSOs should also prioritize investing in capacity enhancing interventions for ITGNC communities to enable them to better self-organize. CSOs should further invest in raising awareness levels of ITGNC persons on their legal and human rights as stipulated in the specific national legal and policy frameworks.

C. Health Care Workers and Settings: should end all forms of stigma and discrimination in health care settings. Health care workers should ensure that they are conversant with ITGNC issues including terminologies and specific health needs of ITGNC persons. Health care settings should also ensure that hormonal therapy and other gender affirming health services are readily made available to ITGNC persons.

D. The Judiciary and Legal Practitioners: should ensure and promote protection and equality before for the law for ITGNC persons as enshrined in their national constitutions. Further lawyers should become more conversant with issues affecting ITGNC persons and begin to proactively take up cases of discrimination against ITGNC persons without any fear or prejudice.

E. Law and Policy Makers: should make all necessary policy changes that are enabling of ITGNC persons to make affirming legal changes. Policy makers should further develop and implement policy aimed at promoting access to health and other social services for ITGNC persons.



F. Employers and the Business Sector: should promote diversity and inclusion in the workplace and adhere to the progressive national and international labour laws and provisions that prohibit all forms of discrimination in the work place. Further, employers should invest in growing the occupational skills of ITGNC members of staff and increase their learning opportunities within the organization.

G. Donors and Funding Partners: should increase funding for research in ITGNC specific issues with the aim of creating a substantive body of evidence that will inform policy and programming. Funders should also increase funding to ITGNC led and focused organizations to enable them advocate for their affirming legal recognition and access to specific and tailored health services.

H. Society in General: should desist from all forms of prejudice, stigma, discrimination, and violence against ITGNC persons. Further, landlords should adhere to the non-discrimination and equality provisions of their national constitutions. Similarly, political, traditional, and religious leaders should promote and support inclusive societies.



6. CONCLUSION

The prevailing legal and policy context in East Africa continues to impact negatively on the lives of ITGNC persons in the region. The existing legislative frameworks in all the five (5) countries continue to present significant barriers to ITGNC persons' ability to make affirming legal changes and access gender affirming and specific health services. The conflation and lack of distinction between sexual orientation and gender identity has also mean that even in countries like Rwanda where there is no criminalization of adult same sex sexual activity and relations, stigma, discrimination and harassment of ITGNC persons remains rampant.

The inability of ITGNC persons to make affirming legal changes and access gender affirming services such as hormonal therapy and gender affirming surgery has negatively affected the mental health of ITGNC persons as evidenced from the high numbers of attempted and contemplated suicides.

Lastly, it is important to recognize that ITGNC persons are not a homogenous but diverse group of people. It is therefore important to appreciate their diverse needs and situations in trying to address the various challenges that they face.

REFERENCES

- Blackmore, J., & Kamp, A. (2009). Education as a determinant of health and well-being. *Understanding health: A determinants approach*, 218-228.
- Dhejne, C., Van Vlerken, R., Heylens, G., & Arcelus, J. (2016). Mental health and gender dysphoria: A review of the literature. *International Review of Psychiatry*, 28(1), 44-57.
- El-Hadi, H., Stone, J., Temple-Oberle, C., & Harrop, A. R. (2018). Gender-affirming surgery for transgender individuals: perceived satisfaction and barriers to care. *Plastic Surgery*, 26(4), 263-268.
- Jaffee, K. D., Shires, D. A., & Stroumsa, D. (2016). Discrimination and delayed health care among transgender women and men. *Medical Care*, 54(11), 1010-1016.
- Jebin, L. (2018). Status of Transgender People in Bangladesh: A Socio-economic analysis. *South Asian Journal of Policy and Governance*, 42(1), 49-63.
- Jordan, K. M. (2000). Substance abuse among gay, lesbian, bisexual, transgender, and questioning adolescents. *School Psychology Review*, 29(2), 201-206.
- Köhler, R., Recher, A., & Ehrt, J. (2013). Legal Gender Recognition in Europe.
- National Centre for Transgender Equality (2015). Meaningful work – Transgender experiences in the sex trade. Available at: https://www.transequality.org/sites/default/files/Meaningful%20WorkFull%20Report_FINAL_3.pdf [Accessed: 15/04/2020].
- Puckett, J. A., Cleary, P., Rossman, K., Mustanski, B., & Newcomb, M. E. (2018). Barriers to gender-affirming care for transgender and gender nonconforming individuals. *Sexuality Research and Social Policy*, 15(1), 48-59.
- Sida (2014). The Rights of LGBTI people in Rwanda. Stockholm.
- Sida (2014). The Rights of LGBTI people in Uganda. Stockholm.
- Scheim, A. I., Perez-Brumer, A. G., & Bauer, G. R. (2020). Gender-concordant identity documents and mental health among transgender adults in the USA: a cross-sectional study. *The Lancet Public Health*.
- Zeeman, L., Sherriff, N., Browne, K., McGlynn, N., Mirandola, M., Gios, L., ... & Farinella, F. (2019). A review of lesbian, gay, bisexual, trans and intersex (LGBTI) health and healthcare inequalities. *European journal of public health*, 29(5), 974-980.



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