

# End Line Assessment Report

## on Promotion of Human Rights and Rule of Law for LGBT Community in Yangon





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### **Disclaimer**

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# Acronyms

<b>CRB</b>	: Colors Rainbow
<b>EQMM</b>	: Equality Myanmar
<b>FGD</b>	: Focus Group Discussion
<b>INGO</b>	: International Nongovernmental Organization
<b>LGBT</b>	: Lesbian, Gay, Bisexual, Transgender
<b>MNHRC</b>	: Myanmar National Human Rights Commission
<b>NGO</b>	: Nongovernmental Organization
<b>NLD</b>	: National League for Democracy

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# EXECUTIVE SUMMARY

This end line assessment report explores the changes and improvement on human rights and rule of law situation of LGBT community in six project townships of Yangon – Shwe Pyi Thar, Hlaing Tharyar, North Okkalapa, Tamwe, Thaketa and Thanhlyin Townships where Colors Rainbow carried out access to justice program with the support of My Justice Programme. In other words, this is the progress report about understanding human rights and rule of law situations of LGBT people and local community in the specified six townships. Within a short period of project intervention, it is impossible that the situation of LGBT people can be changed dramatically. So, the assessment identified not only the success stories of the project but also the areas to concentrate in next project term. Besides, the report also highlights some areas that the project should extend and expand for future intervention.

The assessment, this time, started with the CRB staff and paralegals to understand the activities they concentrated during project period. Using the information from the baseline assessment and activities implemented by the CRB, a series of interviews and focus group discussions with LGBT community, general population, NGO staff and local authorities in project areas and findings are triangulated with activities update mentioned in the CRB's website, articles and news online.

Access to Justice Program of Colors Rainbow provided awareness raising training on LGBT rights under the legal system and the specific laws that are used to repress LGBT people in targeted townships. Legal awareness training focuses essential sections and facts from Criminal Code, Myanmar Customary Law, Yangon Police Act and Police Manual to be able to resolve legal problems in legal way. Advanced training raises awareness on human dignity and human rights and to promote harmony between community and LGBT. Paralegals in each project area are key contact persons for LGBT community and they are provided training. Through them, the CRB's advocates provide legal assistance to LGBT community especially transgender women who need support. The program also provided group therapy to LGBT community in coordination with one psychosocial group called "Heal the World". Besides, the CRB's staff and paralegals are making visits to the courts and police stations in project areas to improve their understanding of LGBT rights in legal system. As sections 375 and 377 of penal code are against the LGBT in current

laws, advocacy efforts to eliminate the phrases which violate the rights of LGBT in coordination with international and national organizations and parliamentarians. The CRB has been tirelessly raising awareness and promoting visibility to understand LGBT rights and SOGIE concepts in media as well as in films.

As a result of Access to Justice Program of the CRB, among six townships of Yangon, Thanhlyin, Tamwe and Thaketa Townships where most LGBT community members are native or well integrated with local communities have tangible results. But the remaining three townships where many LGBT people are mobile and local community itself cannot give time to join training still need more time and may need different strategy to understand human rights as well as LGBT rights and SOGIE concepts. According to the interviewed participants, local communities in those townships look more militant and male chauvinistic. Local authorities as well as local people don't want to join the training provided by the CRB too. Despite of growing media coverage and advocacy efforts of Colors Rainbow and LGBT rights advocates in the country, acceptance and tolerance of LGBT community improve better than before. However, there are many challenges remained. Understanding terminology and concepts of SOGIE and LGBT rights are very limited among both LGBT community and general population in Yangon. Cultural conservatism and associated homophobia perpetuate perceptions of LGBT members as troublemakers and harassers. Public media portrays stereotypes and misconceptions of the LGBT community too.

As mentioned in baseline assessment, trans-women working as sex workers or work late or hang out at night in Yangon are still the most vulnerable group and should be the project's main targeted beneficiary group. There are some reported cases of transgender men who experienced physical violence in the community. However, there are less and less arrests of transgender women who work late or hang out in general. Those arrested also said that they were mostly released after investigation but some who dared not question them back still ended up in jail for two or three months. Because of the CRB's training and pamphlet, more and more transgender women dare to question the police if they are arrested.

Compared to the time of baseline assessment, interviewed LGBT people including lesbians living together

with transgender men proudly and bravely claim their sexual identity ignoring the criticism of their family and community. However, traumatic experience since childhood especially among transgender women has sown seeds of insecurity and inferiority within them. They said that they felt precarious and inferior. Most of them especially in poor community cannot finish school and end up joining the sex industry which can make easy and considerable amount of money although they have to take risk of being arrested by the police. Dress code is very important for trans-men and since they apply for the job, they are rejected looking at their appearance. They feel unwelcome and separated from co-workers and higher-ups. Trans-men working in garment factories did not experience wage discrimination but those working in a circus and as a driver complained of bad treatments of the employers as well as some co-workers.

Low levels of understanding of LGBT rights & legal/justice procedures are still reported among local police in Hlaing Thar Yar, Shwe Pyi Thar and North Okkalapa Townships. Some interviewed transgender women in Thaketa still experience abuse of the police in their area. However, comparatively, the situation gets much better than the time when baseline assessment was conducted. Article 377 of penal code continues to go against progressive ideals of acceptance and accommodation of sexual orientation. Remarkably, arrests of two gay men in Yangon with Article 377 in 2018 regressed advocacy efforts of LGBT rights groups in Myanmar. Article 30(D) still remains vague and easy to stretch to apply to passive & frightened LGBT members in Shwe Pyi Thar and Hlaing Thar Yar. No new story of being shaved, stripped, burned, forced to entertain and having their possessions taken from them by officers and police informants while apprehended was not reported by both paralegals and trans-women in this assessment. However, some still reported of being beaten and arrested at night without committing any crime.

Therefore, this report is concluded with some strategic recommendations to bring effective and sustainable results to promote human rights and rule of law for the whole LGBT community in Yangon. The project span was short and it is impossible to get access to some important stakeholders as well as local community broadly in the project areas according to the CRB staff. Thus, it is recommended to reach to some key stakeholders that the CRB couldn't in previous project period and to expand to townships where many

LGBT community are active.

Articles 30(D) and 377, from the Police Act and Penal Code respectively, are still be used to charge a vulnerable and uninformed LGBT community, in particular the Transgender Women. Especially, Article 377 nowadays becomes a major threat against progressive ideals of acceptance and accommodation of sexual orientation in Myanmar while more conservative India's Supreme Court decriminalizes that section 377 of Penal Code. It is important to rigorously advocate to decriminalize section 377 of national Penal Code and not to arrest innocent transgender women when they cannot be found guilty after being arrested. Due to different forms of discrimination at home as well as in school, many uneducated trans-women sex workers could not get jobs which can feed them enough. If Colors Rainbow can make alliance with appropriate business partners and advocate to employ LGBT community, their life can be changed tremendously.

Despite of training given by human rights groups in Myanmar, general population including law and policy makers are still ignorant of LGBT rights and SOGIE concepts. It is recommended that the Colors Rainbow should find creative and innovative ways to reach the messages to them. Desensitization of homophobia in the society and decriminalization of homosexuality are one of the most urgent issues in promotion rule of law and LGBT rights in this country. Empowerment of LGBT community with proper legal knowledge and decent jobs can build their confidence and help them protect themselves from arbitrary arrest. With understanding LGBT rights and SOGIE concepts of general population as well as police and judicial system, the project can achieve its expected goal to promote human rights and rule of law of LGBT community in Yangon as well as in Myanmar.

# I. INTRODUCTION

## 1.1 Background

Colors Rainbow (CRB) conducted a baseline assessment in six townships of Yangon – Tamwe, Thanhlyin, Thaketa, Hlaing Tharyar, Shwe Pyi Thar and North Okkalapa townships in June and July, 2017. Using the findings of the assessment report, Colors Rainbow provided trainings to raise awareness about LGBT rights under the legal system and the specific laws that are used to repress LGBT people. The CRB also organizes group therapy sessions to support the psycho-social needs of those who try to pursue justice or who face discrimination, especially the most targeted and marginalized, transgender women and transgender men. In collaboration with partner organizations, training to paralegals to assist LGBT people seek legal aid, mediation or other support as needed is provided too. Through CRB's paralegals, Colors Rainbow has regular contact with LGBT people active in selected townships.

Using the data from baseline assessment report, the project end survey was conducted to measure the impact of project intervention of Colors Rainbow in promotion of human rights and rule of law for LGBT community. The assessment collected data to understand changing legal and political environment as well as social structure in project areas for LGBT community in target areas to be able to respond effectively to improve the quality of programme performance to expand the target communities, to review and revise project activities to meet the needs of fulfilling the main objectives of the project as outline below.

This assessment report describes the situation to get access to justice and understanding on human rights of LGBT in target areas are explored against outputs and outcomes of project intervention, tracks record of success stories and identifies areas to be improved for future project intervention. Reflecting the current situation, the report is concluded with realistic, feasible and time-bound strategic recommendations for improvement of the quality of the programme to reach out more effectively to the target community and to meet the needs of fulfilling the main objectives of the project.

## 1.2 Purpose of this assessment

The main objectives of this assessment are:

- a) To measure the level of understanding on human rights and legal procedures for pursuing justice of community in the project locations;
- b) To understand the impact of the project intervention to increase access to legal aid and paralegal service to fight for their rights and initiate rights-based solutions to social problems and
- c) To explore the changing situation of the society with the efforts of the CRB and other likeminded advocacy groups to gain widespread awareness of LGBT issues among general society, policy maker, law makers, and the parliament.

## 1.3 Research Methodology

The consultant devised project end assessment tools based on the methodology used in baseline assessment to explore the situations of LGBT communities in the six project areas in the Yangon region to understand the changes of available legal and other social services, their relationship with different stakeholders, their attitudes towards society, the perspectives of general society towards them, socio-economic discrimination based on sexual orientation and gender identity within communities, workplaces, etc., and areas of needed improvement related to access to justice and recommendations for the project.

The end line assessment was conducted as follows:

1. Consultations with Executive Director, Deputy Directors and Project Coordinator of Colors Rainbow to understand the project intervention;
2. Key informant interviews with all project staff including paralegals from six project townships in Yangon;
3. Focus group discussions with gays and lesbians in all project areas and local communities in project areas and
4. Analyzing the information gained from the above exercises while reviewing project reports and news relevant to project intervention.

## II. SUMMARY OF THE ACTIVITIES IMPLEMENTED BY THE COLORS RAINBOW

### 2.1 Trainings provided

Among the activities implemented by Colors Rainbow during the project period, the most visible among beneficiaries is awareness raising training on LGBT rights under the legal system and the specific laws that are used to repress LGBT people in targeted townships. Three-day human rights training cover the connection between human rights and human dignity, group rights, definitions of LGBT, sex and gender, SOGIE (sexual orientation, gender identity, and gender expression), false norms on LGBT, hatred and segregation against LGBT, health issues of LGBT, and laws which LGBTs should know were discussed. Legal awareness training focuses essential sections and facts from Criminal Code, Myanmar Customary Law, Yangon Police Act and Police Manual to be able to resolve legal problems in legal way. Both LGBT and non-LGBT were invited to join the training in project areas. Advanced training was also provided to training participants who had finished basic training to raise awareness on human dignity and human rights and to promote harmony between community and LGBT. About 28 people joined the training in each project area. According to the training participants, they gained knowledge about how LGBTs should behave in social community and have better understanding on their sexual orientation. Among interviewed people from Thanhlyin, Tamwe, Hlaing Tharyar Townships in this assessment, some LGBT and non-LGBT joined the trainings provided by Colors Rainbow. However, the number of beneficiaries the Coors Rainbow can provide is still limited.

### 2.2 Legal assistance to LGBT people in Yangon region

In collaboration with partner organizations, training to paralegals to assist LGBT people seek legal aid, mediation or other support as needed is provided too. Paralegals are the key contact persons with LGBT community as well as local community in project areas.

If LGBT have any cases, advocates from Colors Rainbow organization are taking the cases free of charge. The CRB's paralegals not only provide legal support to LGBT people on their own but also link up with other organizations which can give assistance to LGBT that they cannot by themselves. E.g. Paralegals refer transgender women who need money to jump bail to the group which is providing such assistance to them in target areas.

### 2.3 Group Therapy for LGBT people

Colors Rainbow also organized group therapy sessions to support the psycho-social needs of those who try to pursue justice or who face discrimination, especially the most targeted and marginalized, transgender women and tomboys with the goal to bring benefits of having respects on one another, knowing the advantages of enjoying their existence at their best happily, having high level of sympathy, having learnt to keep things confidential where it should be, having capabilities of talking in front of people bravely, knowing their own abilities and having learnt to learn from each other. Colors Rainbow and Heal the World joined together to create an environment to gain spiritual strength for LGBT through Group Therapy Section.

2.4 Advocacy to improve access to justice of LGBT people and for law reform

In addition, the CRB's staff of Access to Justice Program is advocating the police officers and judiciary offices in targeted townships for LGBT rights under the legal system and the specific laws that are used to repress LGBT people. Colors Rainbow organization which is working for the right of LGBT in Myanmar is continuously working on Section 375 and 377 which discriminate and oppress LGBT. Colors Rainbow had discussed with advocates at Rule of Law, Gender Equality for three times to find ways to change and amend Section 375 and 377 in March, June and July during 2018. Colors Rainbow led "Discussion and experience exchanging program from Harvard"



concerning with Section 377 of Criminal Law which has repealed in India in November. Responsible persons from Myanmar Judicial and Legal Affairs Committee, Bill Committee (Pyithu Hluttaw), Legal advisory team of Myanmar LGBT rights Network, Legal Clinic Myanmar, Colors Rainbow, Gender

Equality Network, LGBT rights network, Kings & Queen, American Jewish World Service and International Commission of Jurist from Myanmar participated the discussion by comparing with current situations in Myanmar.

## III. PROJECT OUTCOMES

### 3.1 Perspectives of General Population towards LGBT Community changed

Colors Rainbow's Access to Justice Program provided training not only to the LGBT groups in targeted areas but also the local community because LGBT people are part of the society and acceptance of their family members, their neighborhood, their school, places they often visit and the workplace and understanding LGBT rights are very important. Some

local community members joined the assessment and shared their own changes and reflection on the opinions towards LGBT in their areas.

In Myanmar society, people commonly think that men are superior to women. So also being a transgender man looks better than a transgender woman with this belief. As a result, men who tend to behave and wear like women (gays or transgender women) have to deal with social resistance more than transgender men. However, there are different kinds of stories depending on the social values, norms and status.



**Figure 1** - Focus Group Discussion with LGBT people from Thaketa



**Figure 2** - Focus Group Discussion in Thanhlyin

It is undeniable that although socially embedded stereotypes cannot be washed away within a few years, acceptance of LGBT people in their community becomes higher due to the tireless efforts of human rights especially LGBT rights advocate organizations and changing political opening of the country in the past few years. General population gradually understands different sexual orientations and SOGIE concepts but the number of the people who understands well is not that significant yet. There are many more successful celebrities among transgender women and because of them, local community change their opinions toward transgender women. In addition, some targeted townships of the CRB such as Tamwe, Thaketa and Thanhlyin townships are more cosmopolitan than the remaining three townships. Thus, they are easy to adapt the changes and like to adjust their norms and values. Two success stories heard from Thanhlyin township. One restaurant owner made vacancy announcement hiring only transgender men and women. One business woman sponsored a transgender women dancing troupe and advocated local community not to make fun of them.

Depending on the parents and siblings, some LGBT people did not have problems in their childhood. However, some have traumatic childhood. Many gay and transgender women don't finish high school. Interestingly, those who reached to high school or university level said that they did not disclose their identities in their school life. Some transgender women completely changed into the life they wanted only when they were away from their family and relatives. For transgender men, many of them did not have problems with their parents but some did not get acceptance from their families. Increasing number of lesbians is seen in this assessment. Some lesbians clearly claim that they are more attracted to transmen than real men and they don't care what the community or their family members criticize them. However, some of them are not so sure of their sexual attraction but with attachment to same sex friends, they tend to be with their close girlfriend. But transmen also shared some of their experiences that there were many cases that some lesbians ran away with their boyfriends taking their money and property.



Among the communities of the project areas of the CRB, LGBT people in Tamwe, Thaketa and Thanhlyin townships responded that acknowledgement and acceptance of local community got improved. It is because they offer helping hands if the community has any event. Some transgender women said that they donated more money than other people in the community. Interestingly, many interviewed transgender women are major bread earners of their families. They also claim themselves that they make useful for their families to get acceptance. Transgender women in Shwe Pyi Thar said that they earned due respect from the community because they behaved well and did not wear inappropriately. According to one transgender beautician from Thaketa Township, she doesn't mix up with community members too much but if necessary, she gives helping hands to the community. In this way, she earns respect from the community. According to most interviewed LGBT people, they got acceptance from their family members because they could make their living for their family.

Generally, LGBT people in the remaining three townships feel that attention or harassment toward

them become less than before. But it does not mean that there is no more attack or harassment in their areas. According to interviewees, people who don't have time or want to give time for awareness raising working on LGBT rights are the ones who really need to understand well. Among them, local authorities, policemen at the community level and those who really harass the LGBT in the community are not interested to listen to the rights of LGBT people. In North Okkalapa township, one interviewed beauty parlor owner said that less and less customers came to her beauty parlor after a local restaurant owner and a make-up artist who identify as gay from South Okkalapa township had been arrested with rape cases in recent months. Local community deals with them cautiously and in extreme cases, some feel uncomfortable under suspicious eyes of the people. Generally, gay and transwomen feel that they need to be extra-careful due to their different living styles in the community. They have to donate more than other people or show active participation in community work.



**Figure 3** - Focus Group Discussion in Tamwe

Among the CRB's project areas, Hlaing Tharyar township is the most volatile area. A ward administrator in Hlaing Tharyar shared his experience that one LGBT group, in disguise of giving social services took local children and sold them in other areas recently. So also some real men wearing as transgender women rob people at night. Some transgender women working as sex workers also steal or rob the clients. According to Hlaing Tharyar township's paralegal of the CRB who owns and rents an apartment,

"Two people came and rented an apartment. In a short time, only one person left. Then again, four or five turn up and then all disappear again. Sometimes, about ten or twelve stay in the apartment. At first, I asked them but later, as far as, they can sleep in that small space, I have to accept."

Hlaing Tharyar is the most populated township in Yangon regional division where internal migrants especially from Ayeyarwady Delta transit to another place or settle down to look for their jobs. Likewise, many LGBT people from all over the country are seen in that township. Many transgender men are working as factory workers in special economic zone. Transgender men get harassed or attacked by men at workplace or in the community. In poor areas where LGBT people are hanging around, majority of the people live from hand to mouth and they have no time to join training provided by rights advocate groups. In addition, some interviewed LGBT people from both rural and some urban areas complained that their parents, siblings and relatives did not understand them and made much effort to transform them.

During the assessment, both LGBT people and interviewed local community members thought that training provided by the CRB or other rights advocate groups were not enough yet. However, some extended their recommendations that instead of providing training alone, the CRB and LGBT rights advocate groups should use the voices of influential people as well as mass media to change the whole society.

### **3.2 Positive and receptive attitudes towards themselves in relation to society**

The most significant change seen in this assessment is changing attitudes of the LGBT toward themselves in relation to the society. Although the whole society cannot be changed much, self-discrimination of LGBT seems to be less and less. Compared to the time when baseline assessment was

conducted, interviewed LGBT people seem more relaxed and comfortable to talk about their life and situation. 2018 is phenomenal in the sense that many LGBT related activities are covered in news and social media. Colors Rainbow and other LGBT rights advocate groups in Myanmar tirelessly find ways to promote visibility of LGBT rights. As an impact of many coming out of the closet and visible activities of LGBT rights groups, many interviewed LGBT people don't feel uncomfortable for their sexual and gender identities. More gay and lesbians as well as MSMs become comfortable to disclose their sexual identities. Compared to the time baseline assessment was conducted, LGBT community especially transwomen don't complain much of the problems they had with the society. In addition, many transmen and transwomen acknowledge that they need to behave well to earn due respect. Instead of blaming on themselves or others, most interviewed LGBT people discussed more for their survival and their situation this time. One lesbian said,

"I ignore the criticisms of the people around me. They said, "With my decent face and age, I can get a good husband but I end up with a tomboy." I don't care whatever they said. This is my existence and my parents at first disapproved of our living-together. But at last, they gave up and accepted us."

Generally speaking, they are less and less antagonistic towards the community with the assumption that they will be looked down for their different sexual orientation. In other words, the community shows less and less interest in their different sexual orientations accepting them as part of the society. However, it is not true in all project areas. Those interviewed in North Okkalapa, Shwe Pyi Thar and Hlaing Tharyar still feel inferior to their existence for their living. One interviewed transgender woman who is working at night as a sex worker shared her feeling like that;

"When other people are sleeping soundly, I have to run and hide the police to make for living. What a miserable life!"

In dealing with local authorities or police or the court, they are still inhibited. That fear is still common not only to transgender women who have been through different forms of hardships in their lifetime but also to many people in the community as they have negative attitude towards these institution.



### 3.3 Understanding of LGBT rights among the Police gets slightly better

During project period, the Colors Rainbow responsible staff tried to meet with local police and courts in targeted project areas to raise awareness on LGBT rights under legal system. But some project areas could not be reached due to accessibility and availability of responsible staff from the Police Department. As a result, arrest of the police using Article 30(D) of the Rangoon Police Act, known as the 'darkness law' to apprehend Trans-Women on the legal grounds of suspicious activity and failure to identify and account for oneself in some project townships

Paralegal in Thanhlyin Township has been in contact with the police in the township and if the police have any suspect toward LGBT people, they like to contact her.

Those from Tharketa and North Okkalapa Townships said that they heard some new arrests but not in their townships but in other areas. Trans-Women are arrested while operating as sex-workers, returning home after work or walking around their communities when it is dark out. Many police have strong stereotyped attitude toward transgender women according to some interviewees. They cannot accept trans-women for wearing and behaving like a woman even though they are originally men nobler in their opinions in life. With this prejudice, the police



**Figure 4** - Focus Group Discussion in North Okkalapa

reduced to some extents. The police as well as interviewed transgender women, the police arrested them only when there were complaints against them.

According to paralegals and interviewed trans-women from Thanhlyin Township and Tamwe Township, there were few cases in their areas. In Thanhlyin Township, the police had warned those who were active in deserted place before they were arrested not to hang around because the place was dark and could have opportunistic crime. But they did not listen and kept on going and at last, they were arrested.

tend to treat trans-women badly. One policeman in North Okkalapa is a gay but instead of supporting gay people or trans-women, he asked others to treat them harshly.



**Figure 5** – Explaining about CRB's activities in Thaketa

According to interviewed transgender women in North Okkalapa, they still need to run away or hide the police without committing any crime. The use of Article 30(D) of the Rangoon Police Act is still common in Shwe Pyi Thar and Hlaing Tharyar Townships. One local police in Shwe Pyi Thar has been disturbing trans-women in his controlled area nowadays. According to those trans-women, they were stopped and grabbed her off the motorbike. Sometimes, the police hide in the dark and arrest them while passing by. Not only the police but also the judges in some areas treat the trans-women very badly. Instead of checking anything, they decided the cases giving sentence from one

month to two years to the trans-women. Transgender women in North Okkalapa, Shwe Pyi Thar and Hlaing Thar Yar Townships feel that the situation does not change much for them. In Hlaing Thar Yar, one Chinese man working in a factory reported the police station that one trans-woman took his mobile phone and money and as a result, all the trans-women in the area were checked with suspicious eyes. In many areas, it is very normal that if there is a complaint committed by a trans-woman, the whole transgender women are in trouble. Empowered trans-women know how to handle the police and get released.





**Figure 6** - Focus Group Discussion with tomboys, lesbians and community people in Hlaing Tharyar

### 3.4 Level of understanding on LGBT rights and legal procedures is still limited

Among interviewed LGBT people in this assessment, less than one-third of the interviewed people had joined the training provided by the CRB. The CRB made advocacy visits to the courts and police stations in some project areas but they could not get access to all yet. Thus, level of understanding of LGBT rights and legal/justice procedures are still limited among multiple associated parties in Hlaing Thar Yar, Shwe Pyi Thar and North Okkalapa. There, the police that are responsible for most of the abuse don't adhere to the law. The LGBT community itself still needs to have comprehensive knowledge regarding rights and rule-of-law to properly respond and inquire about their arrests. They are ignorant of the laws in place that should protect them or inhibited to respond effectively to intrusive police advances.

### 3.5 LGBT people especially trans-women have limited job opportunity

Many LGBT people especially gay and trans-women reported that they had experienced both physical and verbal harassment and discrimination

related to their sexual orientation and gender identities since childhood in male chauvinist society. At school, they are forced to wear school uniforms based on their own sex. In some poor suburban areas, they get bullied by older students. As a result, many of them don't finish school or run away from their families. Most interviewed trans-women don't finish middle school. They don't have many choices for their living. They can be mediums (Nat-Ka-Daw), makeup artists or run their own business such as beauty parlors or grocery shops. Some are working as casual laborers and some, nowadays work for NGOs. However, many end up working as sex workers. Their daily incomes can be from MMK 10,000 to 30,000 (8 to 20 USD) and so, they cannot escape from the vicious cycle running and hiding the police. Many of them have experienced in prison. Some are scared of being arrested again and work more as casual sex workers. Many trans-women working as sex workers want to join if there is a decent job opportunity.

Some transgender men also have experienced in discrimination at the workplace. Because of their way of dress, employers refuse them. Two trans-men worked at a circus said that they were treated badly. When the time comes to pay for their salary, they make problems to them and they have to return back home. A trans-man working as a car driver shared his experience that the employer asked him to work

overtime and had to return back home so late without giving any extra to hire taxi. So he had to quit the job. However, trans-men working in factories at Hlaing Thar Yar don't complain of any form of discrimination at workplace.

### 3.6 Three Stories for reflection

Three remarkable case studies of two transgender women and a lesbian in the assessment were presented for reflection.

*"Our life as a sex worker is really terrible. We have to hide and run the police all the time. The place I hang out is along Pyay Road. Police siren sounds and ambulance are the same. Whenever we heard of siren sounds, we had to take out high heels and ran away or hid in the bush nearby. One time, I ran away and hid in the bush when I saw the police car. Other friends of mine could run away but I could not and got caught by the police. The police asked me why I ran away and told him back that they would arrest me by all means. When the police officer was about to hit me, I asked him that there was no reason to hit me as I did not run away or did not commit any crime. Then they took me to the police station. But when their Police In-charge saw me and asked why I was arrested, the police explained that they found me hiding in the bush. I told him that I had to run away worrying that they would arrest me without doing anything wrong. So the Police In-charge asked them to release me and I told them that I was with other friends and no money with me. As it was too late at night, I told the Police to send me back to the place I was taken and to give me money to return back to North Okkalapa, the police gave me MMK 5000 to hire taxi. I hired the taxi before them and returned back."*

**A 30-year old trans-woman from North Okkalapa**

She knows that the police cannot arrest her if she does not do wrong. Thus, when they arrested her, she questioned and dared to ask to send her back. Even for her, she does not want to face with the police and that's why she tried to hide them. In focus group discussion, many of them repeatedly said that they did not want to meet with the police as well as the judges.

During the assessment, many couples of lesbians joined the focus group discussion. There are about twenty lesbians living together in a hostel. They all are

factory workers coming from different parts of the country. For two girls living together, they are attached to each other more than a friend. But they don't accept themselves as having same sex orientation. They love each other very much and live together as a couple.

*We work in a factory together. We live together and I love him (her boyfriend who is a tomboy) very much. Both parents disapproved of us to be together and tried to separate us in the beginning. But we stubbornly tried to be together again. His parents especially his brother was angry with us and did not accept us. My parents did not say anything because I am the only daughter. The community criticizes me harshly saying that a lady with her charm can marry a decent man. I ignore their criticism. My life is my choice. I love him.*

**A 22-year old lesbian factory worker from Hlaing Thar Yar**

Because of the training received from the Colors Rainbow, not only trans-men and trans-women but also lesbians, gays, MSMs and Queers start to feel empowered and confident to come out their sexual identities more openly. They also don't feel shy to speak up their identities anymore. They dare to confront with the family members and their community. It is a great move in a country like Myanmar. In all interviewed project areas, together with trans-men and trans-women, lesbians, gays, MSMs and Queers joined the assessment. Some are partners of trans-men and trans-women.

Those who don't know how to respond still end up in jail with Article 30(D). There are many transgender women who are still scared of the police and they try to stay away from them. If they encounter, they dare not question back because they will get hit and sometimes, they ask them to have sex whatever way they like. Sometimes, the police like to ask inmates to do whatever they like to trans-women. With this reason,



*It was on 10th September, 2018. I returned back from downtown Yangon with a friend at night. I got off the bus at Mingalardon to take another one. While we were waiting for the bus, the police car arrived and arrested. They said that one trans-woman stole things and they got complaint from the victim. So they asked me to show that trans-woman and when I refused that I did not know her, I was slapped severely. I don't know that person and how can I know her? But they tortured me and at last, I was charged with Article 30(D). I ended up in jail for two months. I was released recently and currently I am living under restrained order.*

**A transgender woman from Shwe Pyi Thar**

Notably, Section 377 of Myanmar's penal code criminalizes 'carnal intercourse' against the order of nature was not reinforced in the past but one local restaurant owner and a make-up artist were charged under anti-gay law (Section 377) in 2018. These two cases have impact on gay and trans-women community socially. The media covered the news as the complaints of the accused and according to the complaints, they raped the accused. The news spread so quickly in the social media (Facebook) and people stopped coming to beauty parlors run by gay and trans-women make-up artists. If they are convicted with this law, promotion of LGBT rights and advocacy efforts of elimination of Section 377 of Penal Code prescribed during British Colonial Period can be backward.

According to some transgender women, probably some of them committed theft, robbery and drugs sale like other heterosexual people. Police and judicial system supposedly target the LGBT community easily given its distance from the rest of the society and even if they did not commit the crime or were wrongly accused, their voices were normally unheard.

### 3.7 Drawbacks during Project Period

There are many encouraging changes seen during project period because of tireless efforts of LGBT rights advocate groups in Myanmar. Sensitization of homosexuality is successful to some extent. Arrests of two gays with section 377 of penal code shook the LGBT community in legal system. At the same time, reports of men disguised as transgender women in Shwe Pyi Thar and Hlaing Thar Yar Townships who committed crimes disturbed the transgender women community. Consequently, they fall under the suspicious eyes of police as well as some local authorities. Some got arrested to check if they knew transgender women who stole things or robbed. One ward In-charge from Hlaing Thar Yar reported that a so-called LGBT support group took away girls from the community in their township. One girl's parents reported them. These cases made the efforts of the CRB and other rights advocate groups backward in many ways.

## IV. KEY OBSERVATIONS AND STRATEGIC RECOMMENDATIONS

### 4.1 Key Observations on impacts of Project Intervention

Based on findings from focus group discussions and in-depth interviews as well as news from different media and available websites on LGBT rights and access to justice among LGBT community in Yangon, the following key observations would like to be presented -

- 1) Because of the project intervention of the Colors Rainbow as well as the efforts of LGBT rights activists, confidence level of LGBTI community in project areas increases significantly in project areas. Although many are still in the closet, more LGBT including lesbians and gays become brave enough to come out and share their gender identities than before. They also don't feel uncomfortable or shy to speak up. In the past, gay and transgender groups were more visible and only a few lesbians identified themselves of their gender identities. Nowadays, more lesbians who married to transgender men come out and disclose proudly.
- 2) Arrest of trans-women with Article 30(D) is less than before generally although trans-women from three project townships (Shwe Pyi Thar, Hlaing Thar Yar and North Okkalapa) claimed that they were still the target of the Police. However the number of arrest dropped significantly according to paralegals and key informants.
- 3) Movement of LGBT sensitization is phenomenal in Year 2018. International film festivals include short films on LGBT rights and wider Myanmar society gains greater understanding and awareness of LGBT identities.

- 4) There are many improvements seen compared to the situations of baseline assessment. These include:

- Improved societal/cultural tolerance for progressive gender and sexual concepts & expression compared to baseline assessment period;
- Still limited understanding of SOGIE & LGBT concepts in the society including NGO workers and government officials;
- Less and less cultural conservatism and associated homophobia in some project areas and more acceptance on the existence of LGBT community;
- Perpetuated perceptions of LGBT members as troublemakers & harassers;
- Victim-blaming in regards to behavior & dress toward the LGBT community not only gay and transgender women but also transgender men;
- Public media still portrays stereotypes and misconceptions of the LGBT community but proactive & Proud Yangon film festival and some documentaries on the lives of the LGBT people in Myanmar counter them effectively.

#### In the workplace -

- More business owners hire LGBT community and stand up for LGBT people in the workplace but the number of such people does not increase significantly;
- Not only transgender women but also some transgender men complained of hardship and discrimination in the workplace;
- Lack of job skills, training and proper education lead to a growing sex worker industry.

### Related to Rule of Law -

- Discriminatory behavior towards LGBT people from officials in judicial system and police are still common;
  - Improved proper legal accessibility and representation
  - More paralegals and resources comparatively but not enough and inaccessible in some project areas and nearby;
  - Some NGOs supported funds needed for bail;
  - More legal assistance (lawyers) with comprehensive understanding of LGBT concepts but still need more.
  - Less corruption within law enforcement, and the legal and judicial systems compared to baseline assessment period;
  - Police verbal and physical abuse prior to and during detainment and arrest still can be seen but not so as common as before;
  - Complaints of extortion and forced bribery from predatory police become less and less;
  - Operating police in Shwe Pyi Thar, North Okkalapa and Hlaing Thar Yar are uneducated on police guidelines & LGBT concepts;
  - Reports of arrests and interrogations of the whole transgender women community for complaints of theft, robbery or drug sale.
- 5) While positive impacts of the efforts implemented by LGBT activist organizations can be seen more, arrests of two gay men with section 377 of national Penal Code in 2018 shook the whole LGBT community in Myanmar. Some gay and transgender women reported that news on their arrests in social media had negative impacts on them. They were under suspicion of doing something wrong and makeup artists and beauty salon owners complained of getting only a few customers due to unconfirmed accusations of rapes committed by those two gay men. If they found guilty, they could end up in jail for up to ten years. Certainly, use of Section 377 of Penal Code prescribed during British Colonial Period is a drawback for LGBT community in Myanmar while India's Supreme Court decriminalized section 377 of Indian Penal Code.

6) As reported, Articles 30(D) and 377, from the Police Act and Penal Code respectively tend to be the main charges brought upon a vulnerable and uninformed LGBT community, in particular gays and Transgender Women.

- Article 377 continues to go against progressive ideals of acceptance and accommodation of sexual orientation.
- Article 30(D) remains vague and easy to stretch to apply to passive & frightened LGBT members in some project areas such as Shwe Pyi Thar, North Okkalapa and Hlaing Tharyar.

To sum up, efforts of the Colors Rainbow's Access to Justice and Promotion of LGBT rights in Yangon can be seen as some positive results for the LGBT community as a whole. Perceptions toward LGBT community in Yangon improve much during project period. Access to Justice for LGBT community especially among transgender women community significantly improved in all project areas because there are more organizations providing legal assistance toward LGBT community. More LGBT people as well as local community understand SOGIE concepts and LGBT rights. However, within a year and a half, the number of people who received training is not that many. Among officials in legal system including police, because of the CRB's advocacy visits, their attitudes toward LGBT community change and positive outcomes such as decrease of arbitrary arrests with Article 30(D) can be seen in Thanhlyin, Thaketa and Tamwe Townships. However, the Colors Rainbow still need to work more for the whole LGBT community in Yangon especially in the townships where many migrants are coming.

## 4.2 Strategic Recommendations for future Project Intervention

Findings of this assessment clearly indicate that project intervention of the Colors Rainbow brings good results for targeted neediest LGBT community in project areas. However, the challenge is that LGBT people are mobile and many LGBT people engaged in this assessment live in other townships but are active in project areas. Therefore, this report is concluded with the following recommendations to bring effective and tangible results to promote human rights and rule of law for the whole LGBT community in Yangon.

► **Extend and expand the project**

The project span is short. Within a short project period, it is impossible to get access to some stakeholders as well as local community in the project areas and at the same time, the project should reach out to other townships. Thus, it is recommended that the project to promote human rights and rule of law for LGBT community still needs to be continued in existing project areas to reach to the people they couldn't in previous project period and the project also should expand to townships where many LGBT community especially vulnerable and volatile LGBT people are active in Yangon.

► **Continue advocacy for amendment of the laws which affect LGBT community in Yangon**

Articles 30(D) and 377, from the Police Act and Penal Code respectively, are still be used to charge a vulnerable and uninformed LGBT community, in particular the Transgender Women. Article 377 nowadays becomes a major threat against progressive ideals of acceptance and accommodation of sexual orientation in Myanmar while more conservative India's Supreme Court decriminalizes that section 377 of Penal Code. LGBT community also can find way to advocate for amendment of Article 377 to take out the phrases which are controversial to LGBT rights. When there is a report of the crime committed by a transgender woman at the station, the police tend to arrest and interrogate all transgender women seen on the road to find the one who committed crime. Article 30(D) remains vague and easy to stretch to apply to passive & frightened LGBT members and it is used for arrested transgender women when they cannot find other crimes. So, it is vital to advocate rigorously not to arrest innocent transgender women at night while promoting rule of law for LGBT community in Yangon.

► **Make alliance with appropriate business partners who can create job opportunities for LGBT community**

Many LGBT people at workplace have been discriminated based on their sexual orientation. Many uneducated trans-women sex workers active in Yangon yearn for decent jobs. Some of them are interested to join any decent job but most are more interested in floral designs, beauty industries or fashion designs. Some are interested to work as sale staff to sell

cosmetics at beauty counters in shopping malls. If Colors Rainbow can make alliance with appropriate business partners and advocate to employ LGBT community, their life can be changed tremendously.

► **Continue promoting LGBT rights as well as SOGIE concepts among general society as well as among law and policy makers**

Tireless efforts of Equality Myanmar and Colors Rainbow are seen to educate human rights including LGBT rights and SOGIE concepts among general population including law and policy makers nowadays. Many interviewed LGBT people are from rural areas of the country and they complain that their families don't understand them. So also, many paralegals and educators said that local authorities and older people didn't want to join training or workshops on LGBT rights and SOGIE concepts. It is recommended that the Colors Rainbow should find creative and innovative ways to reach the messages to them.

Finally, sensitization of homophobia in the society and decriminalization of homosexuality are the most urgent issues to promote rule of law and LGBT rights in this country. Empowerment of LGBT community with proper legal knowledge and decent jobs can improve life of LGBT people in Yangon. With understanding LGBT rights and SOGIE concepts of general population as well as police and judicial system, the project can achieve its expected goal to promote human rights and rule of law of LGBT community in Yangon as well as in Myanmar.