

Robust action needed to stop violence against trans people

Widespread violence against trans people in Europe is a violation of human rights that calls for action from European institutions, states, and public institutions. This policy brief will discuss the forms of violence suffered by trans people and the existing European policy measures designed to address gender-based anti-trans violence and discrimination. It also proposes recommendations on how to stop injustice experienced by trans people and overcome the side-lining of trans issues in European equality and human rights politics.



Introduction

Trans and gender-diverse people around the world face multiple types of violence: structural, institutional, societal, and interpersonal violence. A striking manifestation of violence against trans people is the high murder rates, the subject of Transgender Europe's Trans Murder Monitoring (TMM) research project. The TMM archive registered a total of **2609 reports of murdered trans and gender-diverse people in 71 countries worldwide** between 1 January 2008 and 30 September 2017. These killings have been reported from all world regions (Africa, Asia, Central and South America, Europe, North America, and Oceania).¹ In Europe, 123 murders of trans people have been reported since January 2008.

Violence against trans and gender-diverse people frequently overlaps with other axes of oppression prevalent in society, such as racism, sexism, xenophobia, and anti-sex worker sentiments.² The intersectional inequalities manifest themselves in trans women, migrants, and sex workers being more often subjected to violence and/or victimisation by non-state parties as well as the institutions mandated to help and support victims/survivors of crimes.

The causes of violence against trans and gender-diverse people are diverse and complex, and include misogyny and transphobia, as well as the precarious economic situation that pushes many trans and gender-diverse people to the margins of society. The violence motivated by transphobia is often particularly brutal and, in some instances, is characterised by levels of cruelty exceeding that of other hate crimes.³ Violence tends to be perpetuated in a culture where offenders sense impunity when justice remains undone, and adequate support and protection systems for victims are lacking.

Culture of violence

Sites of violence include homes, public spaces, schools, and workplaces. School experiences of trans children reveal worrisome trends: they experience abuse, institutional exclusion, and peer bullying; their identities are disregarded, policed, and punished.⁴ In adulthood, many trans people are excluded from the formal economy, as their identification documents do not reflect their gender identity, and they face hostile transphobic work environments. Discrimination and harassment against trans people in employment is widespread and confirmed by research results.⁵

The systemic marginalisation of and violence against trans people is a violation of human rights that requires a public policy response. Need for action has been recognised by the UN Independent Expert on violence and discrimination based on sexual orientation and gender identity,⁶ the World Health Organisation,⁷ the Council of Europe,⁸ the European Parliament,⁹ and the European Union's Fundamental Rights Agency¹⁰ (FRA), all calling national governments and public institutions to form an adequate policy response to address manifold forms of violence experienced by trans people.

¹ Information about the TMM research project can be found in Balzer, Carsten and Lukas Berredo (2016). TMM Annual Report 2016: 2,190 murders are only the tip of the iceberg - An introduction to the Trans Murder Monitoring project. Available: <http://transrespect.org/en/tvt-publication-series/> (15.11.2017).

² Fedorko, Boglarka and Lukas Berredo (2017). The vicious circle of violence: trans and gender-diverse people, migration, and sex work. TGEU. Available: <http://transrespect.org/en/tvt-publication-series/> (15.11.2017).

³ UN, Human Rights Council, Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/20/16, May 23, 2012, para. 71.

⁴ 38% of trans respondents in the FRA LGBT survey said that they had often or always experienced, heard or seen negative comments or conduct at school because they were, or a schoolmate or teacher was, perceived to be LGBT person. See FRA LGBT survey report p. 37.

⁵ 30% of trans respondents in the FRA LGBT survey (2014) said that they felt discriminated against in the past 12 months when looking for a job. Available: <http://fra.europa.eu/en/publication/2014/being-trans-eu-comparative-analysis-eu-lgbt-survey-data> (8.11.2017). According to a U.K. survey, 36 per cent of trans workers have quit their job and as much as 60 per cent have experienced some form of discrimination on ground of gender identity in the workplace Totaljobs (2016). Totaljobs trans employee survey report 2016: <https://www.totaljobs.com/insidejob/trans-employee-survey-report-2016> (20.09.2017).

⁶ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/72/172 (8.11.2017).

⁷ <http://www.who.int/hiv/topics/transgender/about/en/> (8.11.2017).

⁸ Resolution 2048 (2015) <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=21736> (8.11.2017).

⁹ European Parliament resolution of 9 June 2015 on the EU Strategy for equality between women and men post 2015 (2014/2152(INI))

¹⁰ Being Trans in the EU - Comparative analysis of the EU LGBT survey data: <http://fra.europa.eu/en/publication/2014/being-trans-eu-comparative-analysis-eu-lgbt-survey-data> (8.11.2017).

European policies

A number of European policy documents contain measures that can be used to address violence and discrimination against trans people. **The Treaty on the Functioning of the European Union and the European Union Charter of Fundamental Rights** equips the EU with the legal foundations to combat discrimination on ground of sex, hence also gender reassignment and gender identity.¹¹ **The European Convention on Human Rights** protects everyone against discrimination on ground of gender identity as clarified by the European Court of Human Rights in *Identoba and others v. Georgia*.

The **Council of Europe's convention on preventing and combating violence against women and domestic violence**, alias the Istanbul Convention, states that its implementation must be secured without discrimination on any ground such as sex, gender, or gender identity. The Convention is a comprehensive legal tool to tackle the extensive human rights abuse of those who fall victim of gender-based violence. It covers a broad range of measures, from data collection and awareness-raising, to legal responses of criminalising different forms of violence, such as forced sterilisation.

Gender identity and gender expression are explicitly included as protected grounds in the **victim's rights directive**,¹² which defines gender-based violence as violence that is directed against a person because of that person's gender, gender identity, or gender expression, or that affects people of a particular gender disproportionately.

The list of actions by the European Commission to advance LGBTI equality foresees measures to boost trans visibility in the EU, including, for example, repeating the LGBT survey by FRA and assisting Member States in implementing EU law regarding trans and LGBTI people.

The Commission's strategic engagement for gender equality 2016-2019 prioritises five key areas for action, one of them being dignity, integrity, and ending gender-based violence, under which the Commission has engaged itself to continue focused actions to end all forms of gender-based violence.

¹¹ The first formal opening of EU law to trans issues occurred in the European Court of Justice's 1996 judgment of the *P. v. S. and Cornwall County Council* case, where judges interpreted the law on equality between women and men to apply to cases of gender reassignment. Also, the Gender Recast Directive (2006/54/EC), Recital 3, explicitly provides that the principle of equal treatment for men and women cannot be confined to the prohibition of discrimination based on the fact that a person is of one or other sex, but it also applies to discrimination arising from the gender reassignment of a person.

¹² Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.

Policy Recommendations

- Study and analyse the widespread exposure of trans people to violence, particularly in the work of the Eurostat and the European Institute of Gender Equality with Member States for the improvement of national data collection. Include variables such as gender identity and gender expression of victims in relevant methodology.
- Support research on the mindset and social attitudes behind transphobia and misogyny to tackle more efficiently prevalent rigid gender stereotypes.
- National governments should consider gender identity and gender expression as protected grounds in equality policies, action plans and awareness-raising campaigns.
- Formulate protection measures that address the asylum and migration dimension of violence against trans people.
- Develop and implement concrete actions based on the Istanbul Convention, such as devising clear policies for providing victims with redress and prevent further violence, also the establishment of services such as shelters, medical services, counselling and legal aid that are competent and inclusive of trans people.
- Train professionals (victim support providers, police officers, healthcare workers, teachers etc.) on preventing and responding to discrimination and violence against trans people, sex workers, and providing appropriate support.

Building a culture of rights and safety

Although a number of European policy tools provide a certain level of protection to trans victims of violence and prohibits discrimination on ground of gender reassignment and/or gender identity, the explicit legal protections need to be strengthened. The efficiency of policy measures depends on the political will of European institutions and national governments. Policy measures need to translate into concrete actions against gender-based and anti-trans violence, including enhanced efforts to monitor implementation.

A dialogue, which involves trans civil society, needs to start at the national level, with a view on how implementation of the victim's rights directive can be used to prevent anti-trans violence. This, in turn, would help European and national policymakers formulate better and more inclusive policies.

Glossary

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modifications of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerism (Yogyakarta Principles).

Trans people are individuals whose gender identity and/or gender expression differs from the gender they were assigned at birth.

