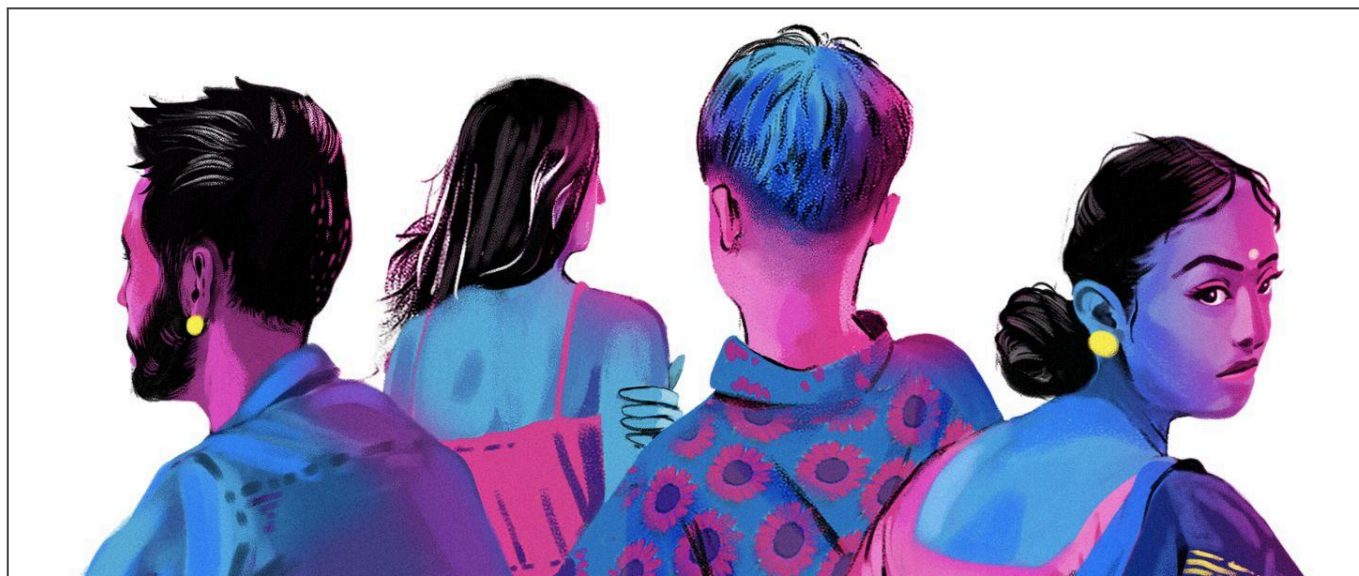


# Trans Thrive Project: Transcending Transphobia

A guide to the definition of transphobic incidents, violence and conversion therapy practices



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## ACRONYMS AND ABBREVIATIONS

<b>APTN</b>	<b>Asia Pacific Transgender Network</b>
<b>TGEU</b>	<b>Transgender Europe</b>
<b>ILGA Europe</b>	<b>The European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association</b>
<b>WHO</b>	<b>World Health Organization</b>
<b>CBO</b>	<b>Community-based organization</b>
<b>NGO</b>	<b>Non-governmental organization</b>
<b>SOGIE</b>	<b>Sexual orientation, gender identity, and (gender) expression</b>
<b>GBV</b>	<b>Gender-based violence</b>

## DEFINING TRANSPHOBIC VIOLENCE: HATE INCIDENTS, CRIMES, VIOLENCE AND CONVERSION THERAPY PRACTICES

Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people. This could be based, inter alia, on gender, gender identity, sexual orientation, ethnicity, religion, age or disability. A hate crime comprises two distinct elements:

- It is an act that constitutes an offense under the criminal law, irrespective of the perpetrator's motivation; and
- In committing the crime, the perpetrator acts on the basis of prejudice or bias

Thus, the perpetrator of a hate crime selects the victim based on the victim's membership or perceived membership in a particular group. Where the crime involves damage to property, the property is chosen because of its association with a victim group and can include such targets as places of worship, community centers, vehicles or family homes.

### **HATE SPEECH**

Forms of expression that are motivated by, demonstrate or encourage hostility towards a group or a person because of their membership in that group. Since hate speech may encourage or accompany hate crimes, the two concepts are interlinked. States differ considerably as to which forms of expression can be limited or prohibited because of their hateful nature.

### **GENDER-BASED VIOLENCE (GBV)**

Trans people who are gender-nonconforming or whose trans identity is more visible to others may be particularly vulnerable to violence because they challenge binary gender norms or do not conform to gender role stereotypes. Violence against trans people because of their gender identity or gender expression is a form of GBV (Betron and Gonzalez-Figueroa, 2009).

In the broadest terms, "gender-based violence" is violence that is directed at an individual based on their biological sex, gender identity, or perceived adherence to socially defined norms of masculinity and femininity. It includes physical, sexual, and psychological abuse; threats; coercion; arbitrary deprivation of liberty; and economic deprivation, whether occurring in public or private life (Khan, 2011).

GBV is a fundamental human rights violation and a serious public health concern that primarily affects women and girls, but can be directed against anyone who violates sex or gender norms. Rooted in gender inequalities and power imbalances between men and women, an estimated one in three women is affected by violence in her lifetime. This vulnerability also extends to trans women, hijras, and metis, who are punished for violating gender norms (WHO, 2014a; WHO, 2013a; Tamang, 2003).

### **CONVERSION THERAPY PRACTICES (CTP)**

In his report to the United Nations Human Rights Council in 2020, the SOGI Independent Expert used "conversion therapy" but in an expansive way that reflects current discussions about the harm caused by a broad range of practices perpetrated in many different settings.

"Conversion therapy" is used as an umbrella term to describe interventions of a wide-ranging nature, all of which are premised on the belief that a person's sexual orientation and gender identity, including gender expression, can and should be changed or suppressed when they do not fall under what other actors in a

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given setting and time perceive as the desirable norm, in particular when the person is lesbian, gay, bisexual, trans or gender diverse.

(SOGI Independent Expert report A/HRC/44/53, Practices of so-called “Conversion therapy” (June 2020), para 17)

The Asia Pacific Transgender Network (APTN), in collaboration with country partners, conducted a crucial research project in India, Indonesia, Malaysia, and Sri Lanka. This project aimed to document the various forms of conversion therapy (CT) practices against transgender and gender-diverse individuals. Sexual violence emerged as a common CT practice in all four country reports, particularly in India, Sri Lanka, and Malaysia, where “corrective” rape was used to enforce gender and sexual orientation norms. Many interviewees experienced physical violence, such as caning and beating, as part of CT practices. Concerns about violence within families were prominent for both transmasculine and transfeminine individuals. Additionally, CT practices involving traditional, alternative, or mainstream medical treatments could result in severe physical side effects linked to the procedures or medications.

**Transphobic violence** refers specifically to physical acts of violence and aggression targeting transgender and gender diverse people due to transphobia. This includes physical assaults, murders, and other violent hate crimes.

**Transphobic incidents** is a broader term that can include non-physical acts such as verbal harassment, bullying, discrimination, microaggressions, and other abusive or prejudicial treatment towards transgender and gender diverse people that may not necessarily involve physical violence.

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## BACKGROUND

Across the world, there are two key legal approaches addressing transphobic hate crimes. The first approach involves creating separate criminal offenses that make it illegal to cause harm, whether fatal or non-lethal, when the motivation behind the harm is the victim's actual or perceived trans identity. The latter gives the judiciary authority to enhance penalties when a crime is committed with a bias motive related to the victim's gender identity, and gender expression. These provisions, often known as "aggravating circumstances," can apply to specific types of crimes like murder and assault or be applicable across the entire range of offenses within a penal code.

In countries across Asia and the Pacific, where our partners reside, protection for trans communities against hate crimes is minimal, and inconsistent with diverse approaches. Only Samoa's Section 7(1)(h) of the Sentencing Act (2016) increases penalties for crimes committed partly or wholly because of hostility towards a group of persons who share an enduring common characteristic, including 'sexual orientation and gender identity.' Meanwhile, East Timor's Article 52(2)(e) of the Penal Code (2009) includes motivation based on discriminatory sentiment regarding 'sexual orientation' as a general aggravating circumstance, and Mongolia's Section 10(1)(2)(14) of the Penal Code (2015) aggravates penalties only for homicides motivated by hatred towards the victim's 'sexual orientation and gender identity,' but not for other criminal acts.

On the other hand, several countries in the Asia Pacific region have transphobic policies and anti-trans laws that breaches international human rights standards. Documenting hate crimes against trans people is crucial to protect them, provide data to change legislation, and provide assistance to survivors and victims. However, in the South Asian context, data collection faces challenges due to a lack of trans-friendly laws, instances of police misconduct, and families withholding information about the victim's identity."Documenting transphobic hate crimes is important to draw attention to the atrocities faced by the trans community, and civil society bodies often pick up the responsibility for data collection when state bodies fail to do so.

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## TIPS FOR SURVIVORS IN REPORTING TRANSPHOBIC INCIDENTS

### Personal Safety

Your safety is the top priority. Ensure you are in a safe location before attempting to report the incident.

### Possible Responses After an Assault

Recovery is a personal journey, and seeking information and support for yourself, a friend, partner, or family member can be a helpful step. In the aftermath of a transphobic hate crime or violent incident, individuals, their loved ones, and the community may experience a range of emotions, such as:

- Feeling degraded or disrespected.
- Shock, disbelief, and confusion.
- Fear, anger, sadness, anxiety, or distrust.
- Emotional numbness.
- Shame or embarrassment.
- A sense of loss of control.
- Concerns about their gender identity being challenged.
- Increased hyper-vigilance, worries about safety, and fear of new people or situations.
- Internalized negative feelings towards oneself.
- Physical symptoms like headaches, reduced energy, changes in appetite, or sleep disturbances.

It's important to know that these feelings are valid, but not everyone will experience them in the same way, or at all. Responses to such incidents can vary widely among individuals. Your recovery journey is unique, and there is no one-size-fits-all approach to healing.

### Preserve Evidence and Document Details

Try to remember and document as many details about the incident as possible, such as the date, time, location, and descriptions of the perpetrators. Note any witnesses if there were any.

If it's safe to do so, preserve any evidence, such as text messages, social media posts, or photos related to the incident. This evidence can be crucial for investigations.

### Seeking Medical Care

Reasons to seek medical care:

- You may have sustained physical injuries and may not be aware of these due to shock.
- You deserve to receive professional support and care.
- You can provide evidence in case you choose to open an investigation.
- Your medical records are confidential.
- You have a right to access non-discriminatory services that are available to all survivors of hate crimes and violence

When you have been physically harmed, it's essential to seek medical attention immediately. Document any injuries, and ask medical professionals to provide a statement.

### Contact LGBTQ+ Organizations

Reach out to local LGBTQ+ organizations, support groups, or advocacy groups. They can offer guidance, support, and resources for reporting hate crimes.

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### Utilize Online Reporting Systems

Some regions have online hate crime reporting systems that allow you to submit information electronically. Check if this option is available in your area. If the incident occurred online, consider reporting it to the social media platform or website administrators. They may take action against the perpetrators.

### Keep Records and Stay Informed

- Maintain a personal record of all communications related to the incident, including interactions with the police, lawyers, or victim support organizations.
- Keep up-to-date with local and national resources for survivors of hate crimes. Knowledge of available support can be empowering.

### Consider Legal Support and know your rights

- Consult with an attorney or legal aid organization with experience in hate crime cases. They can advise you on your rights and potential legal actions.
- Familiarize yourself with your legal rights as a survivor of a hate crime. Laws and protections may vary by location.

### Reporting to the Police

When you're reporting a transphobic hate crime, your first step should be to contact the police. However, it's important to acknowledge that law enforcement can sometimes be unsupportive, especially if trans-affirming laws are lacking. In some cases, the police may even be involved in the hate crime, making reporting difficult.

- **Exploring Alternative Legal Avenues:** In regions where hate crime laws are absent, you can explore other legal provisions under which your report can be filed. Fear of further harassment at the police station can deter trans individuals from reporting. Having members of local human rights organizations or community members accompany you during the reporting process can enhance your safety and support.
- **If Police Refuse to File the Case:** If law enforcement refuses to file the case, you can seek assistance from human rights lawyers who specialize in handling cases of human rights violations. Various lawyer networks focus on such issues and can help you identify alternative legal avenues.

### Confide in a Trusted Person

Share your experience with a trusted friend or family member for emotional support. You don't have to go through this alone.

### Advocate for Change

Consider sharing your story with advocacy groups, lawmakers, or local media to raise awareness about the issue and advocate for policy changes.

## TIPS FOR DOCUMENTING TRANSPHOBIC VIOLENCE INCIDENTS FOR COMMUNITY-BASED ORGANISATIONS

### Collecting Data

- Identify specific data to be gathered, including demographics, incident details, nature of the incident, impacts on survivors, medical and legal support, as well as their experiences with the justice system, and determine the methods for acquiring this data.
- Identify opportunities for data collection, such as during your organization outreach programmes, activities, event days such as TDOR, TDoV etc as a key means of collecting information.
- Utilize various means of data collection such as surveys, questionnaires, social media, and offline campaigns.
- Emphasize the importance of adopting a holistic approach to data collection to ensure accurate fact-finding from all survivors and witnesses in cases of hate crimes involving public events or multiple individuals
- Simultaneously practicing monitoring and fact-checking/verifying activities

### Fact-Checking the Data

- There has been challenges in getting data from official sources in countries without laws against hate crimes or sexual assault of trans persons.
- Bear in mind that there might be distortions in official reports of hate crimes through a transphobic lens.
- It is necessary to check multiple statements reporting the same crime.
- Important to review multiple media documentations of the same incident to determine accurate facts.
- Monitor and fact-check data collected from law enforcement and the media.

### Guidelines for Interviewing Survivors and Other Sources

- Identify survivors.
- Ensure sensitivity towards victims to avoid triggering them.
- Work with a sensitive interviewer, ideally from the community, to ensure more sensitivity towards and awareness of hate incidents against trans people.
- Interview chosen family members from the community instead of blood family members in cases involving a deceased trans person.

### Verifying Sources

- Note variations in information provided by different people
- Address challenges in determining a person's transgender identity in case where a blood family/public is the only witness to a crime
- Make sure to categorize cases as hate crimes when there is evidence suggesting transphobia as a possible motive

### Report the Collected Data to Stakeholders

- Organize and analyze the data into factsheets, graphs, and statistical analysis for comprehensibility and accessibility
- Ensure that the findings are reported and disseminated to the state, human rights organizations, and trans organizations in a factual, reliable, credible, and sensitive manner
- Explore the potential for reporting to the state to support lobbying for legislative changes.

### Key Issues in Documenting Transphobic Incidents

- Documentation can occur in several stages.
- The importance of timing and predicting the occurrence of a hate crime can be crucial to preventing it.



- Trans individuals are vulnerable to domestic violence and hate crimes in various locations, such as cruising spots, protests, and police stations. It's important to understand that hate crimes often coincide with trans individuals exercising their rights.
- Many crimes against trans individuals go unreported due to the transphobic law enforcement
- There are challenges associated with reporting hate crimes to transphobic law enforcement, emphasizing the need for support networks and labor unions to provide data to national decision-making bodies.

**Reporting to the Police**

- Be mindful of the potential involvement of transphobic law enforcement as potential perpetrators.
- Submit the collected data to national decision-making bodies.
- Provide a summary of key points for data collectors to consider while documenting hate crimes against trans people in South Asian countries.

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## REFERENCES

- Transphobic hate crimes and speech are terms build on TGEU's and ILGA Europe working definitions
- Betron, M. and Gonzalez-Figueroa, E. (2009) Gender Identity, Violence, and HIV among MSM and TG: A Literature Review and a Call for Screening. Washington, DC: Futures Group International, USAID IHealth Policy Initiative, Task Order 1.
- Khan, A. (2011) Gender-based violence and HIV: A program guide for integrating gender-based violence prevention and response in PEPFAR programs. Arlington, VA: USAID's AIDS Support and Technical Assistance Resources, AIDSTAROne, Task Order 1.
- World Health Organization Western Pacific Regional Office (2013a) Joint technical brief: HIV, sexually transmitted infections and other health needs among transgender people in Asia and the Pacific.
- World Health Organization (2014a) Consolidated guidelines on HIV prevention, diagnosis, treatment and care for key populations.
- Tamang, S. (2003) 'Patriarchy and the production of homo-erotic behaviour in Nepal'. Studies in Nepal History and Society 8(2): pp. 225-258, December 2003. Accessed 11 December 2014 at: [http://martinchautari.org.np/files/2\\_%20 Seira%20Tamang.pdf](http://martinchautari.org.np/files/2_%20Seira%20Tamang.pdf)
- Balzer, C. and Hutta, J. (2012) 'Transrespect versus transphobia worldwide: A comparative review of the human rights situation of gender-variant/trans people', TvT Publication Series, Vol. 6. 2021 update of Trans Murder Monitoring (TMM), Cumulative tables at: [https://transrespect.org/wp-content/uploads/2021/11/TvT\\_TMM\\_TDoR2021\\_Tables.pdf](https://transrespect.org/wp-content/uploads/2021/11/TvT_TMM_TDoR2021_Tables.pdf)