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Transphobic Hate Crime on a National and International Scale

Abstract The extent, nature, type and context of transphobic hate violence are discussed here. First, theoretical perspectives and debates regarding transgender-based violence perpetrated for gender deviancy are examined. Second, the neglect of ethnic diversity within the available literature resulting in quite a polarised perspective on transgender identities is highlighted. Third, the prevalence of transphobic violence on a national and international scale is provided. Fourth, the nature and type of transphobic hate violence are analysed by exploring the different types such as verbal, physical and sexual violence. Fifth, the impact of gendered territories and access to safe spaces are also discussed in relation to how the intersectional characteristics of a trans person may increase their vulnerability to hate crime. Case studies are used to illustrate these points.

Keywords Prevalence • Theoretical perspectives • Verbal violence
Physical violence • Sexual violence • Gendered space • Vulnerability
Case studies

‘Some members of [...] society ridicule gender-variant people for being ‘different’ and they may even be hostile. Even from police, they face physical and verbal abuse, forced sex, extortion of money and materials; and arrests on false allegations. The absence of protection from police means ruffians find Hijras/TG people as easy targets for extorting money and as sexual objects’ (UNDP 2010, p. 8). In Chap. 1, diverse cultural perspectives were explored with regard to different societal responses to gender diversity being affected by geographic and historical influences. These influences continue to inform research findings such as the ‘Whiteness’ of the theoretical perspectives and research referred to below. In this chapter, it is suggested that the intersectionality of victims can increase the likelihood of their victimisation and exacerbate its impact as a result of institutional discrimination (see Tyra Hunter’s case below).

From birth, as members of society, we are socialised into particular gender roles determined by the evidence of primary sexual characteristics such as external genitalia. Sex Role Theory (Parsons and Bale 1956) latterly known as Gender Role Theory asserts what is appropriate ‘masculine’ (e.g. strong, assertive, aggressive) and ‘feminine’ (e.g. submissive, passive, nurturing) behaviours. Social agents consisting of the family, education, peers and occupational culture provide the socialising influences resulting in gender conformity. However, for those who fail to adhere to gender role norms such as gender non-conforming, non-binary gender and transgender individuals, sanctions are thus perpetrated by transphobic hate crime offenders. These offenders are threatened by the perceived destabilising effect of non-binary genders which threatens their traditional and heteronormative conceptualisations of gender roles. ‘Heteronormativity is defined as the set of norms that make heterosexuality seem natural or right and that organize homosexuality as its binary opposite’ (Corber and Valocchi 2003, p. 4). The motivations of hate crime offenders will be discussed in Chap. 4 when discussing the victim–offender relationship.

Perry (2003) suggested that transphobic hate crime offenders’ objective is to send a warning ‘message’ directly to the victim but also indirectly to wider society. Transphobic hate crime offenders reinforce conformity to people’s natal gender through the violent sanctions perpetrated against perceived gender ‘deviants’, also reinforcing the marginalisation and his-

torical subordination of vulnerable communities. Trans people's victimisation and the response to it may also be negatively impacted upon by the multiple ethnicities and gender characteristics of victims. Bornstein (1994) refers to these hate crime offenders as 'gender terrorists', for example those who raped and murdered Brandon Teena (a trans male) her friend Lisa Lambert and Lisa's friend Philip DeVine in Falls City, Nebraska in 1993. Halberstam (2003) notes the importance of this case lies in its raising the issue of the particular vulnerabilities to violence experienced by queer (encompassing trans, gay and lesbian identities) youths within rural North America. She suggests that the motivation for the homicide of Brandon Teena is that his gender presentation, and treatment of his girlfriends in a sensitive and respectful manner emphasising his middle-class background and more subtle performance of masculinity undermined the working-class men in this rural community and their macho treatment of females. It is therefore suggested that the performance of gender roles within this provincial community is in accordance with traditional masculine values where men must present as the aggressor, be unemotional and act out in a hypermasculine manner. Thus, reinforcing a rigid gender dichotomy which does not acknowledge the possibility of non-binary or third gender identities; as to recognise the existence of multiple gender identities would be perceived as a threat with regard to the potential destabilisation of the 'naturalised' gender dichotomy.

Bornstein (1994), however, constructs a third space external to society's gender dichotomy for self-identified 'gender outlaws'. The case of Gwen Araujo who was beaten and strangled to death when her transgender status was discovered after she had consensual sex with several men at a party (Lloyd 2013). Trans people are not only victims of transphobic violence but also discrimination in housing, employment, in prison (see Jamel 2017), and health care such as in the case of Tyra Hunter. She was a pre-operative trans woman who was the victim of a road traffic accident and when the Fire Department EMTs realised her transgender status during the assessment of her injuries they discontinued treatment. They then ridiculed her (this could be deemed verbal and psychological violence), this mistreatment was continued at the hospital where she was not

treated in a competent or swift manner considering the severity of her injuries, this medical negligence led to her death (see Fox 1999).

The complexity of transphobic hate crime is further illustrated when we examine the multiple layers of the vulnerability of victimisation based on ethnicity, class and sexual orientation. These exacerbating factors result in the increased likelihood of victimisation but are also absent in theoretical perspectives. For example, Roen (2001) emphasised the 'Whiteness' of transgender theory, suggesting it needs to become more racialised; this is reflected in her use of examples of acceptance within Maori culture, where gender liminality (the recognition of a 'third gender') is normative. This perspective allows for gender fluidity and facilitation of gender non-conformity or non-binary genders. This perspective also has implications regarding the medicalisation of transgenderism and how this may be negotiated as this is often reinforced within legislation. For example, the language used in the GRA 2004 in England enshrines a binary gender as one must live as one's acquired gender until death. Links between the gender binary, socialisation and legislation will be discussed in more detail in Chap. 3.

Hate crime incidents are more likely to involve individuals who are '**Crossing**', living visibly as a transgender person as opposed to '**Passing**' (assimilating in order to conform to society's norms) as their acquired gender (Eliot and Roen 1998). The ability to pass is often based on appearance and body type, with less attention being given to the influence of ethnicity and class. However, Bettcher (2007) states that even those individuals whose characteristics may be read as male can be mediated by a good quality wig, nice clothes and beauty treatments to enable them to successfully pass. Compared to those of lower socio-economic status who cannot afford such 'aids' and are consequently easily read and subject to harassment and physical violence. Intersectionality of ethnicity, class and socio-economic status thus impact on the level of visibility in society and their ability to 'pass' or 'transition' successfully. These intervening factors draw on Bourdieu's (2010) constructs of social, cultural and economic capital which can facilitate successful 'passing' and diminish symbolic, physical, emotional, psychological and sexual violence.

Prevalence of Transphobic Hate Crime

According to research, the extent of transphobic victimisation is that three in four trans people are targeted annually. Furthermore, that the prevalence of transphobic victimisation which trans men and women experience does not significantly differentiate between them (see Whittle et al. 2007). However, Kelley's (2009) research found a higher percentage of trans women were victims of transphobic hate crime. This may be due to trans women's increased visibility compared with trans men. In addition, trans men may also be less likely to contact victim services about transphobic or homophobic incidents. Homophobic hate crimes according to the 'OSCE, EU Fundamental Rights Agency and Human Rights First, are legislated against by "13 EU member States (Belgium, Denmark, Estonia, Finland, France, Germany, Ireland, the Netherlands, Portugal, Romania, Spain, Sweden, the United Kingdom) as well as Andorra, Canada, Croatia, and since very recently, the USA, have legislation which addresses hate motivated attacks or crimes motivated by sexual orientation, either as a specific offence or as an aggravating circumstance in the commission of a crime. Apart from the United States and Scotland in the United Kingdom, there is no State that makes a specific reference in its criminal law to hate crime based on gender identity'" (Swiebel and van der Veur 2009, p. 493). The situation regarding the legal recognition of hate crime based on gender has now changed across some of these territories and these will be discussed later. Transphobic hate crime can range in severity and involve multiple incidents on a daily basis (Stotzer 2009). In 2010, there were 357 hate crimes targeting the trans community recorded in England, Wales and Northern Ireland (Smith et al. 2012). In London alone in 2011, the number of reported transphobic hate crimes was between 60 and 90 (Guttierrez-Cooper, personal communication, 2011, personal correspondence). In London, for the period of 2012/2013, the police recorded 50 transphobic hate crimes, however, as stated above this is an enormous underrepresentation of the actual prevalence of this type of crime according to anecdotal evidence (see Antjoule 2013). In addition, Yeung (2016) suggests that

the number of hate crimes reported to the police has almost tripled since 2011 when it was 215 to 582 in 2015.

There are also a number of inhibitors to the accurate recording of transphobic hate crime from the lack of recognition; for example, in some territories such as the USA, the Bureau of Justice Statistics only began including gender bias crimes in its hate crime statistics since 2010 (Sandholtz et al. 2013). Transgender victims of hate crimes are also less visible within statistics documenting hate crime as a consequence of the underreporting, and hence under-recording of this type of crime (Swiebel and van der Veur 2009). Complainants may therefore not receive an appropriate level of support if services are needs-directed. Also, a real or perceived lack of a sympathetic response from the police may be envisioned by victims of such hate crimes depending on their previous experiences of the policing response in this regard. In addition to this information is the fact that the low prosecution rate reinforces the lack of faith in the police response to this crime.

Inhibitors to Reporting

Reasons for not reporting include (i) mistrust of the police, (ii) lack of confidence in the police investigating the incident, (iii) disillusionment with the police's ability to do something about it, (iv) fear of a transphobic police response and (v) fear of reprisal or being outed to family or neighbours. According to the College of Policing (2014), crimes that should be recorded as transgender hate crimes are where the victim or other person perceives the motivation (partially or completely) as transphobia, or where this hostility was evident prior, during or post-offence. The victim may not be trans but be perceived as such or even be a friend or relative of the trans person. Recorded police statistics for the 2015–2016 period state that 858 (1%) of all hate crimes were directed against trans people (Corcoran and Smith 2016). Furthermore, it was noted that in 41 of the 43 police forces in England and Wales, transphobic hate crime was the 'least commonly recorded' hate crime (Corcoran et al. 2015). However, it should also be noted that a fifth of transphobic crimes occur in London despite only one in eight of the population

living there (Antjoule 2013). In Ireland, TENI (2014) documented 32 transphobic incidents from assault to rape to property damage; however, only 15 of these were categorised as hate crimes. The respondents in this study were composed of the following gender groups: trans women (56%), female (41%) which included trans and cisgender-identified individuals. On the masculine spectrum, there were trans men (22%), male (6%), transgender (19%) and 'other' (13%) such as genderqueer or gender fluid. And, one participant identified as intersex. Regarding sexual orientation, over a quarter identified as lesbian (28%), a quarter were unsure of their sexual orientation and 22% identified as bisexual, gay (6%), heterosexual (6%), 'other', pansexual or queer (13%). The average age was 31, the age range of respondents was between 17 and 63 with the majority aged from 18 to 44 (TENI 2014). An additional barrier to reporting can be the perceived normalisation of these hate-motivated acts and consequently a failure to recognise them as crimes (FRA 2014; Kelley 2009).

The dark figure of unreported and unrecorded crimes is therefore particularly problematic with regard to ascertaining the extent of a hate crime because sexual orientation and gender-motivated hate crime particularly suffer from a lack of representation by both victims and the police. The British Crime Survey included questions on sexual orientation-motivated hate crime as recently as 2009–2010, and gender identity-based hate crime has been included in the rebranded Crime Survey for England and Wales in 2011–2012. The Association of Chief Police Officers (ACPO) stated that from January to December 2010 that of 48,127 crimes recorded in England, Wales and Northern Ireland, 357 of these were hate crimes targeting trans individuals (i.e. transphobic hate crimes) (Smith et al. 2012). This is quite a low figure when one considers that trans people may be subjected to verbal violence or hate speech on a daily basis.

It is also noteworthy that the FBI only began collecting statistics on transphobic hate crime as recently as 2013. This lack of recognition served to further increase the invisibility and marginalisation of this underserved community of trans people. The collection of officially recorded statistics on hate crime emphasises the increasing importance of transphobic hate crime, thus further raising awareness and facilitating improved assistance

for victims through needs-directed services. According to the recent FBI statistics for the 2014–2015 period of the 109 victims of gender identity bias, 69 were victims of anti-transgender bias and 40 were victims of anti-gender non-conforming bias (FBI 2014). The difference between anti-transgender bias and anti-gender non-conforming bias is the following. Anti-transgender bias relates to a person being targeted because they identify as a gender different to that associated with their natal sex, for example a person who is born male but identifies as female and vice versa, or any individual who cross-dresses. Particular epithets may also be directed at them such as *'tranny'* and *'she-male'*. Anti-gender non-conforming bias relates to individuals who do not identify 100% as the other gender but feminise or masculinise their person to a limited extent. For example, a man identifying as male who wears male clothing but also wears make-up such as eyeliner, or nail polish, or a woman who identifies as female, wears female clothing but also wears a tie or other male attire. Invectives which may signify this type of crime include *'sissy'* and *'tomboy'* (FBI 2015). There is also a distinction between hate crime and bias-motivated crime, see below.

'The term bias more accurately reflects a preconceived prejudice toward members of a group characterized by certain attributes, whereas hate suggests a more personalized anger associated with a particular individual' (McDevitt et al. 2013, p. 108). The incidence of bias-motivated crime in the form of non-violent attacks is more difficult to research than violent equivalents (e.g. where a person is beaten and homophobic remarks are made throughout, there is physical evidence and 'public remarks' evidencing a hate-motivated attack (Wolff and Cokeley 2007). It has also been noted that marginalised communities (based on their ethnicity and/or sexual orientation) are reluctant to report crime to the police due to their belief that such agencies have a racial (Rice and Piquero 2005) and anti-gay bias, this is also frequently reinforced by their community's culture and media representations.

Thus, multiple vulnerabilities or intersectionalities regarding being a member of an ethnic minority, gay or lesbian, may further inhibit victims of transphobic hate crime from reporting crimes to the police. This lack of confidence in the police in sensitively handling their case is also a problem for the trans community (see Kelley 2009).

Types of Violence

Transphobic abuse can range from verbal harassment to physical assault, sexual assault and homicide. Witten (2003) found that 23% of hate-motivated attacks involved sexual harassment, 15% sexual abuse or attempted sexual abuse and 6% were subjected to rape as a result of their gender identity. Such extreme violence or even homicide is directed at trans females by males in a sexualised context motivated by anger at their 'gender deception'; this concept will be discussed later. Whereas research on trans men within the employment sector suggests that female colleagues gender them as being lesbian on the basis of their natal sex and thus respond using passive aggression by revealing their transgender identity in order to 'protect' their female colleagues from engaging in inadvertent homosexual acts (Schilt and Westbrook 2009). It is also of interest to examine the prevalence of transphobic violence in other cultures. For example, in 2007 a study stated in the past year, the percentage of those MSM (Men who have Sex with Men) and hijras ($n = 75$) subject to forced sex was 46%, physical abuse 44%, verbal abuse 56%, extortion 31%, and threat to life was 24% (UNDP 2010). As can be seen here, verbal violence is the most prevalent, thus, as aforementioned, it is unfortunately understandable how this hostile behaviour becomes normalised within trans peoples' daily lives. It was also noted that many trans individuals who identified as Lesbian, Gay or Bisexual (LGB) and were also occasionally subjected to homophobic hate crime (Kelley 2009).

Male perpetrators who had sexual intercourse with a person believed to be female, on discovering the person's trans female identity are concerned that consequently, they may be perceived as exhibiting homosexual tendencies due to the 'one-act rule of homosexuality' (Schilt and Westbrook 2009). Newspaper articles described that regarding the homicides of trans individuals, 56% of these were related to the transgender status of the victim (Clements-Nolle et al. 2006; Kenagy 2005; Moran and Sharpe 2004; Schilt and Westbrook 2009; Stotzer 2009; Turner et al. 2009; Witten 2003). The extremity of the physical and/or sexually violent response is in direct relation to the perpetrator's homophobia and their subscription to the 'one act rule of homosexuality' (i.e. the social perception that if a person engages in a same-sex sexual

encounter just once then they are deemed homosexual). Anger is a motivation due to the alleged gender deception of the non-transgender male in this sexualised context resulting in a perceived homosexual encounter. Thus, an additional 5% of these documented cases involved the use of a trans panic defence in response to unsolicited sexual advances (Schilt and Westbrook 2009) and involved a non-transgender man killing a trans woman. This defence is grounded in the 'one-act rule of homosexuality' discussed above. In such cases, the non-transgender man is solicited for sex by a trans female and when he finds she has a penis, he retaliates with extreme violence for this perceived gender deception (Schilt and Westbrook 2009). Thus, trans women are framed as deceptive gay men due to their fraudulent seduction of 'innocent' non-transgender men. 'The extremity of men's responses shows the depth of the threat of transgender bodies to heteronormativity within sexual situations and the need to neutralize that threat through hyper-gendered reactions' (Schilt and Westbrook 2009, p. 458).

The following case of extreme transphobic violence illustrates the above points and was prosecuted as a hate crime. This case involved the aforementioned homicide of Gwen Araujo who at age 17 was killed at a party in California by four men in 2002. The trigger for her murder was the forced revelation that she had male genitalia and was thus accused of gender deception by the perpetrators as she had consensual sex with several of the men prior to her being physically beaten, strangled and buried in a shallow grave (see Steinberg cited in Lloyd 2013). A 'trans panic' defence was used by the four defendants stating their emotions were so intense on finding out her transgender identity they spontaneously responded using excessive violence. This defence was rejected. This was a complicated case and took two trials as the first was declared a mistrial. The second jury also was not willing to include hate crime enhancements to the sentencing despite the excessive violence and nature of the crime and the trigger for the killing (Lloyd 2013).

In North London in 2011 and 2015, there were two homicides of trans women. The first was Destiny Lauren a trans female sex worker who was murdered by Leon Fyle who was unknown to her, Fyle strangled her and considering the intimacy of this modus operandi it could be suggested that a sexual encounter may have taken place before he was aware of her

transgender status. The former case of a trans female sex worker being murdered is one of those news stories which continually gets reported and reinforces certain stereotypes regarding trans women's occupations which does not recognise the limited access that trans women in particular face in the employment sector despite the Equality Act 2010, which will be discussed in the next chapter. The second case was the homicide of Chrissie Azzopardi a trans woman who was due to undergo gender confirmation surgery later that year. She was stabbed to death by her drug dealer Romy Maynard; the judge suggested there was a transphobic motive and that the trigger may have been his realisation of Chrissie's transgender status (www.thelawpages.com/court-cases/Romy-Maynard-12185-1.law).

However, the most-documented transgender homicides happen in Brazil (845) from 2008 to 2016, and 42% worldwide in 2016. Mexico was the second highest (245) for the same period, respectively; the occupations of those trans people who are targeted are usually sex workers and hair-stylists (TGEU 2016). The cases in Brazil predominantly involved the victim's involvement in the sex work trade and/or drug misuse; thus, the risk of them being targeted is increased due to the clients who may frequent these areas. There were also cases of shootings and beatings such as that of Dias aged 33 who was a trans man (a carer and hospital escort) who on leaving a club was set upon and beaten to death. The cases above have been used to illustrate the excessive violence perpetrated in transphobic and hate-motivated homicides and also highlight the diversity of victims.

In Schilt and Westbrook's (2009) study, the context is key regarding the acceptance of trans men and women, in a social or work context (with top-down support) trans men and women may assimilate with their non-transgender male and female counterparts as long as they identify as heterosexual. However, in a private or sexualised context, transgressions of the gender and sexuality dichotomies are retaliated against by non-transgender males and females in a passive or actively aggressive manner. A related issue to this response is the fact that cisgender attraction to trans individuals is framed as pathological or fetishistic (Serano 2009). Kelley's (2009) research supports this by stating attacks on LGBT individuals are often transphobic in nature as the motivation is often because of the perceived gender deviancy (non-heteronormative) identity of the individual, e.g.

‘effeminate’ homosexual male or ‘butch’ lesbian. Thus, the main motivation was ‘homophobia/transphobia’ (58%). There is a greater concentration of research on trans females’ transphobic victimisation and the different types of violence which they are subjected to and these are discussed next.

Thus, there is a gender differential in relation to the perpetration of sexual violence against members of the transgender community. For example, MTFs (69%) experienced higher rates of rape than FTMs (30%) (see Kenagy 2005). Approximately 50% of trans individuals report rape (coerced sexual intercourse) to the police (Stotzer 2009); there is little variance across studies regarding this figure (e.g., Clements-Nolle et al. 2006; Kenagy 2005). However, Reed et al. (2009) found that 2% of incidents involved sexual violence in their study. The term ‘physical violence’ includes a variety of acts, such as attempted bombings and abductions at the broad end of the spectrum compared to more narrow definitions encompassing physical beatings (Stotzer 2009). Witten (2003) stated that trans individuals were victims of hate-based muggings (29%) and beatings (39%). More recently, Whittle et al. (2007) found that 5% of trans individuals surveyed suffered physical abuse. While Clements-Noelle et al. (2006) found that 63% had been subjected to ‘verbal gender victimisation’; whereas Witten (2003) stated that 23% had been victims of sexual harassment and 41% reported being followed or stalked. Also, Xavier (2000) reported that 18% of participants in this study experienced some kind of intimidation in addition to vandalism (4%) and blackmail or extortion (2%). Whereas Whittle et al. (2007) found that 19% suffered verbal harassment and 10% were targeted with threatening behaviour. Thus, it can be seen that the types of transphobic hate crime can vary significantly yet the research appears to focus on the narrower definition of physical violence; and sexual violence victimisation of trans people.

Feelings of Safety and the Location of Transphobic Attacks

Kenagy and Bostwick (2005) found that 56% of their respondents reported that being transgender made them feel unsafe and 43% of trans individuals felt uncomfortable in public. Furthermore, it is quite a grave

finding that the perceived life expectancy of the transgender respondents in this study was described as follows: 40% felt they would have a shorter lifespan as a result of their gender identity (due to queer bashing, being killed by the police, the effects of hormones and HIV status). This fear of victimisation was also highlighted through respondents' level of spatial awareness and gendered safe spaces (e.g. in one case, a trans woman subjected to an aggravated sexual assault on leaving a nightclub, consequently changed her behaviour regarding what locations she felt safe to frequent) (see Moran and Sharpe 2004). However, few studies have included specific information regarding the location of transphobic attacks, although one study did find that '50% occurred at a private residence, 20% on public transport, 20% in public accommodation and 10% in the street or a public area' (Stotzer 2009, p. 174). Also, counter to public perceptions bias crimes do not tend to be perpetrated in 'cruising' areas or GLBT bars but according to Wolff and Cokely (2007) most were found to occur in their own homes (37%) which although a little higher, in the main supports previous research (see Comstock's [1991] study on homophobic crime; Kuehnle and Sullivan 2001). Nevertheless, some transphobic hate crime incidents did occur at GLBT venues (14%), at work (13%) and all of these cases warranted police attention. Other cases which involved direct contact with the police took place in the home, cars, public places (e.g. sidewalks), GLBT venues (13%) and public business or areas (11%) (Wolff and Cokely 2007). The cases in the next section evidence the extremity and excessive nature of the physical violence which may be perpetrated as part of a transphobic hate crime.

The motivation for homicide is frequently alleged 'gender deception' or the perceived threat of the trans person to the gender binary and heteronormative ideals which are more entrenched in Western society and particular macho or masculine tradition-based cultures on a global scale, e.g. Mexico, India, Italy, South America and Africa. For the period of 2008 to April 2016, the total number of reported homicides of trans people for all regions was 2115. Of these, 1654 trans and gender-diverse homicides were reported in Central and South America thus accounting for 78% of the global figures. Brazil (51%) and Mexico (15%) account for 66% of the entirety of reported murders in Central and South America. Providing a global context, 183 murders of trans and gender-diverse people in Asia

(across 16 countries), North America (141), Canada (5), Europe (16 countries) (117), Africa (four countries) (10) and Oceania (four countries) (5) (TGEU 2016). These figures should be tempered by the recognition that these data may be limited by the diverse recording practices which may underestimate the prevalence of such homicides. The next section examines transphobic criminal victimisation that may occur more regularly within the daily lives of trans and gender non-conforming individuals.

Case Studies

The following case studies provide examples of verbal and physical violence perpetrated against trans people in their daily lives resulting in their fearing for their personal safety.

Paul Lewis

The victim within this case is Paul Lewis a trans man who was undergoing the process of gender reassignment. Paul Lewis contacted Stuart Davies (defendant) as he heard that [he] had an altercation with his fiancée—Amanda Miller. In the course of the phone call, the defendant threatened to kick Mr. Lewis' head in and called him "sick". Mr. Lewis and his fiancé then went to see a mutual friend. They were in the car when the defendant punched the windows several times, he then threatened to smash their heads in. Days later, Mr. Lewis was walking with another friend when he was again approached by the defendant. Again, a confrontation took place where Lewis was verbally abused because the defendant was transphobic and then physically assaulted. The defendant then threatened Mr. Lewis and stated that if the police were informed then he would get a sword from his house and decapitate him. Following CPS advice, the defendant was charged with making a menacing phone call (S127 Communications Act 2003), Section 4(1) Public Order Act and Battery. The offences were wholly motivated by the defendant's hatred of transgendered people and he admitted in interview that he was homophobic. The offences were all accompanied by abusive words used by the defendant expressing his dislike for gender change. These include describing Mr. Lee as "a thing" rather than a person "shime" (she/him), "lets see what kind of a man you are" and "you are sick". Both Mr. Lewis and his fiancé gave evidence at trial with the special measure of screens. During the trial, it came to light that the defendant's wife may have perverted the course of justice by trying to secure a false

alibi. On this basis, the judge directed that the case be re-tried as key defence witnesses were discredited. The case was subsequently re-tried where the defendant changed his plea to guilty on Battery, which meant the couple were not required to give evidence for the second time. The Section 4 allegation was dropped. The defendant had previously pleaded guilty to making a menacing phone call. The defendant was [subsequently] sentenced to a Community Order for 18 months including 130 h [ours] of unpaid work in the community. [And,] £50 compensation was also ordered' (CPS 2008, p. 10).

Heather Williams

This case particularly [highlights] issues in relation to the potential infringement of the s22 Gender Recognition Act 2004 as the disclosure of any information would reveal the identity of the main victim (a transsexual woman) or her address which could have put her at risk of further intimidation. Ms. Williams was returning home from work and boarded an evening train. Mr. Braithewaite (Passenger 2) also boarded the train in the same carriage. Nearing the end of the journey, the defendant walked through the train and sat opposite Ms. Williams and tried to engage her in conversation. As Ms. Williams sensed a potential unwelcome situation and was in any case intending to alight at the next station, she did not wish to enter into a conversation with the defendant and told him that she had no time to talk as she was getting off at the next stop. The defendant continued in an aggressive and offensive and stated "I know you are a man". Ms. Williams did not want to discuss her gender identity with a stranger, but attempting to avoid argumentative confrontation, reluctantly replied "No, I am a transsexual woman". At this point, she gathered her possessions and moved to the exit doors. The defendant proceeded to follow her and verbally abuse her and another passenger who sought to intervene. At which point, the defendant pointed his finger in the face of the Mr. Braithewaite and said "Don't you fucking tell me what to do, you're one of them, bunch of queers". Ms. Williams then became concerned for her personal safety as the defendant moved to a position between her and the exit doors and continued to state "fuck off" and "dirty queers". As a result, she activated her personal attack alarm. When the train came to a halt Ms. Williams and Mr. Braithewaite alighted, along with the defendant. After Ms. Williams had been pursued down the station platform with the unwelcome tirade continuing, two Police Community Support Officers approached and positioned themselves between the defendant and Ms. Williams. The defendant continued to shout "She's a fucking man" in their presence and "fuck off you queers, fuck off out of England". He then tried to push one of the officers out of the way and kned the other officer in the groin area. The defendant was restrained by one of the officers still shouting "you're a fucking queer"

and “you fucking raped me”. He was then restrained and arrested on suspicion of assault. Whilst in custody the defendant was further arrested on suspicion of Transphobic Section 4 Public Order. During interview, the defendant admitted his presence at the scene and to the offence. He admitted that he “can’t stand” gay people and to being abusive with a homophobic content. The defendant was formally charged with an s.4a Public Order Act Transphobic offence and s.5 Public Order Act Homophobic Offence and assault on the PCSO’ (CPS [2008](#), p. 12).

The above case studies both demonstrate the threatening effect of both verbal and physical violence which can be directed against trans people which we hear less about compared to the attention given to the extreme brutality of transphobic homicides. Nevertheless, these verbal attacks occur more regularly may be even on a daily basis and thus awareness needs to be raised and research carried out on the potentially psychological and physically damaging effect of such incidents.

In this chapter, the nature and type of transphobic hate crime have been discussed together with its prevalence and factors which mediate the likelihood of victimisation such as intersectionality. The intersectional characteristics consisting of ethnicity, gender, class, socio-economic status, etc. which can increase the vulnerability of trans and gender non-conforming people to hate crime victimisation and the impact these have on their recovery and resilience. The lack of faith and confidence in the police response to hate crime and the impact that this has on the reporting of this crime were also considered and this subject will be returned to later on. Theoretical perspectives were also referred to as rigid constructions of gender are socialised as being normative; also in societies with this traditional binary-gendered landscape, certain people (hate crime offenders) experience cognitive dissonance when faced with individuals who present as one gender, but who may possess the genitalia as the opposite gender. Religion also reinforces the binary gender structure of society, societal attitudes and law thus shaping legislation. It is therefore not until recent history that legislation has been passed regarding the protection and rights of trans people, which will be discussed in the next chapter.

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