

Australian Human Rights Commission

Dr Anna Cody, Sex Discrimination Commissioner
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By email: tgd.submissions@humanrights.org.au

Re: Call for Submissions: Current and emerging threats to trans and gender diverse human rights

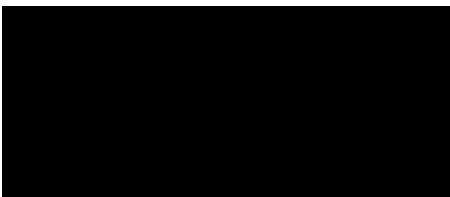
Dear Anna,

It is great to mark this first official correspondence to you since I joined ANROWS. We thank the Australian Human Rights Commission for the opportunity to respond to the Call for Submissions into current and emerging threats to trans and gender diverse human rights.

ANROWS is an independent, not-for-profit company established as an initiative under Australia's *National Plan to Reduce Violence against Women and their Children 2010–2022*. Our primary function is to build the evidence base that supports ending violence against women and children in Australia.

ANROWS is pleased to provide a brief submission responding to questions regarding the systemic barriers and challenges faced by trans women in accessing essential services; experiences of discrimination that impact access to essential services; patterns of discrimination, harassment and violence targeting trans women in public, private and online spaces; and measures that can challenge anti-trans sentiment and discrimination. We would be happy to assist the Commission further, as required, and I look forward to working with you towards our shared interest in gender equality and ending violence against women and children.

Yours sincerely



Dr Tessa Boyd-Caine
Chief Executive Officer

5 April 2024

Overall comments

ANROWS commends the Australian Human Rights Commission for conducting this consultation and is grateful for the invitation to provide this submission.

This submission identifies important considerations for understanding and responding to the safety and wellbeing of trans and gender diverse individuals and communities. We draw primarily on an ANROWS study that examined the experiences of sexual violence among trans women of colour (Ussher et al., 2020) and contextualise this work within broader research where available. Pseudonyms used in this submission reflect the pseudonyms used in the original research report.

Experiences of discrimination and systematic barriers to accessing essential services

The experiences of trans women remain poorly understood by many healthcare providers, legislators, police and policymakers. These issues are amplified for trans women of colour creating unique experiences of discrimination and disadvantage (Ussher et al., 2020).

The available research demonstrates considerable discrimination and systemic barriers that trans women experience when accessing essential services. For example, trans women experience housing insecurity that is linked to financial difficulties associated with the systemic barriers that trans women face (Ussher et al., 2020). In attempting to access housing support, one interviewee, Fiona, described transphobic interactions with the housing department, where she provided her ID with her preferred name, alongside letters from her doctor proving that she had been transitioning to a woman. The housing department insisted she sign with her “male birth name” because her name had not yet been legally changed (Ussher et al., 2020, p. 80). Similarly, when accessing health care, Elizabeth described being “stuck” with the “wrong name” on her Medicare card, and the associated stress and humiliation experienced “every time they [went] to the doctors” (Ussher et al., 2020, p. 73).

The high costs of gender-reassignment surgery and other health care, including psychiatrists or other medical needs, creates financial barriers that impact trans women’s ability to access services. The high costs of health care also have implications for employment, with women working jobs they do not like, including sex work where that is not their “first choice”, but is considered necessary because “options are limited” (Ussher et al., 2020, p. 55). Gatekeeping by healthcare providers alongside high costs of hormonal treatment can lead to women sourcing “counterfeit” or “fake” hormones that could be ineffective or pose other risks (Ussher et al., 2020, p. 73).

The Ussher et al. (2020) study also highlighted the poor health outcomes, such as anxiety, depression, self-blame and suicidal thoughts, experienced by many trans women that were associated with their exposure to sexual violence and the social inequities and transphobia they endure. Many of these poor health outcomes were intensified for trans people from culturally and linguistically diverse backgrounds (Ussher et al., 2020). Interviewees also described experiences with healthcare services that were “queerphobic” (Selvi), “transphobic” and “disrespectful to trans women of colour” (Lin; Ussher et al., 2020, p. 110). Connections to accessible healthcare services is associated with better quality of life after sexual violence (Townsend et al., 2022), yet for many women the formal support that was available to cisgender women after sexual assault was not experienced as accessible or adequate for trans women. Additionally, many trans women are wary to seek support for sexual violence due to prior negative experiences with healthcare providers (Ussher et al., 2020). This is particularly concerning as trans and gender diverse people report experiencing sexual assault or coercion at almost four times the rate of the general Australian

population (Callander et al., 2019). Inaccessible health care for trans women following sexual violence is likely to result in enduring health inequities.

The Ussher et al. (2020) study identifies similar barriers to accessing support from justice agencies following sexual assault. While trans women of colour were twice as likely as other groups of women to report having been sexually assaulted 10 or more times, no trans women who participated in the survey had accessed support from police or justice agencies (Ussher et al., 2020). Some interviewees had accessed support from justice agencies and reported judgement, victim-blaming, a lack of acknowledgement that sexual violence had occurred and a lack of formal response in collecting DNA or other samples (Ussher et al., 2020). Intrusive comments, disbelief and attack are common throughout legal system processes (Salter et al., 2020). For trans women, their gender identity is also “open to public scrutiny” throughout these processes (Ussher et al., 2020, p. 111).

Existing research also highlights barriers relating to identifying and responding to domestic and family violence (DFV) within LGBTQ relationships due, in part, to the “heterosexual face” of DFV (Gray et al., 2020, p. 52). DFV in LGBTQ relationships can involve unique tactics of abuse, including identity-based abuse. Findings from the 2021 National Community Attitudes towards Violence against Women Survey (NCAS) suggests that such violence perpetrated against trans and gender diverse people is poorly understood compared to other forms of DFV (Coumarelos et al., 2023). Additionally, trauma from discrimination and stigma (sometimes termed “minority stress”) can impact the way DFV is experienced by LGBTQ people, compounding barriers to seeking help.

Gray et al. (2020) further highlight barriers to accessing support from police due to fear, mistrust, systemic discrimination and violence. As a queer, trans woman in the study explained “if you’re both queer or you’re both trans, you’re both trying to survive in a world that wants to kill you, basically. And by exposing your partner, even if they’re being abusive or violent ... exposing them to interactions with police or the criminal legal system, or prison, it could, ... be the death of them. And it’s far worse than the sort of abuse or violence that is being done within that relationship” (Gray et al., 2020, p. 46).

Discrimination, harassment and violence in public, private and online spaces

The evidence base highlights discrimination, harassment, violence and targeting of trans women in public, private and online spaces.

Online harassment and abuse including transphobic, homophobic and racist comments and threats of physical or sexual violence were commonly reported by interviewees in the Ussher et al. (2020) study. This abuse was perpetrated in a range of online contexts, including via dating applications.

Being outed in and excluded from public spaces was described by some women in the study. One interviewee, Jenny, was frequently questioned about her right to use women’s public toilets. Some interviewees described verbal abuse, including threats of sexual and physical violence, accompanied by being followed and, in some cases, physical violence (Ussher et al., 2020). Reflecting the higher rates of physical violence experienced by trans people as compared to cisgender people (Dean et al., 2000), many women had been spat on, hit, had objects thrown at them, and been groped or touched in public spaces including on public transport (Ussher et al., 2020),

Interviewees described “banal violence” (Lin) – or “microinvalidations” (Sue et al., 2007, p. 274) – experienced through deliberate misgendering (Ussher et al., 2020). One participant, Lin, described

such experiences as “not only ... a process of [not] seeing who I am, [but also] a process of trying to mould me into something that I already know that I am not” (Ussher et al., 2020, p. 79). A community stakeholder similarly explained how “men deliberately use the word ‘mate’ in a very masculine, Ocker [Australian] way ... to draw a line in the sand, to classify trans women in a category that brings them comfort” (Ussher et al., 2020, p. 80).

Additionally, some trans women experience discrimination within LGBTQ communities (Ussher et al., 2020; Levitt & Ippolito, 2014). People who identify as LGBTQ are not a homogeneous group and are not inherently or inevitably inclusive in their attitudes or behaviours (Gray et al., 2020). For some interviewees, racism and transphobia experienced within the queer community were positioned as “part of the ‘trauma’ of coming out” (Dinaz; Ussher et al., 2020, p. 84), that for some interviewees led to them isolating themselves from the queer community.

Violence and sexual assaults were also experienced in private spaces (Ussher et al., 2020). For some trans women, experiences of telling family members they were trans or wearing feminine clothing were met with transphobic rejection and attempts to prevent gender transitioning and violence.

Interviewees also spoke about physical and sexual violence in the context of intimate partner relationships. Interviewees identified risks of violence associated with disclosure of trans identity when beginning an intimate partner relationship with a cisgender man. Interviewees described not only having to be vigilant about the possibility of violence, but also needing to decipher those men who genuinely wanted to form a meaningful relationship from those who were “curious” or who sexually fetishised trans women. Interviewees also spoke about the “intersection of exoticising women of colour and also exoticising trans women” (Elizabeth; Ussher et al., 2020, p. 92) as increasing the risk of objectification and sexual violence for trans women of colour.

Several of the women interviewed were involved in sex work. Coupled with education and employment discrimination, many trans women have limited options to support themselves, and sex work is often necessary for survival (Ussher et al., 2020). Further, trans women of colour are more likely to enter and stay in sex work compared to other trans women (Weinberg et al., 1999). While engagement in sex work can be a positive experience for trans women, creating a sense of community (Fletcher, 2013), financial security and independence (Sausa et al., 2007), there are high rates of sexual violence and victimisation experienced by trans women of colour when engaging in sex work (Sausa et al., 2007; Ussher et al., 2020). Indeed, interviewees in Ussher et al. (2020) reported that physical and sexual violence impacted “a lot of [trans] girls in the sex business” (p. 92).

Challenging anti-trans sentiment and discrimination

Due to the sparsity of research in this area, ANROWS recommends further research to inform interventions and initiatives.

It is critical that any initiatives, programs or policies engage with and are co-designed by multicultural women’s services and LGBTQ services.

Preventative actions focused only on changes made by the individual will have limited impact upon the perpetration of harassment, discrimination and violence directed towards trans individuals. Specific interventions need to be underpinned by broader community changes that can shift anti-trans sentiment. This includes community-wide, multifaceted interventions to encourage cultural change and challenge societal attitudes which support, condone or trivialise violence towards trans and gender diverse individuals.

Trans women should be able to live free from violence in all settings regardless of how they socially, medically or legally affirm their gender. Some trans women in the Ussher et al. (2020) project described affirmation strategies as a way to prevent violence. For example, interviewees identified “passing” as “a survival strategy” (p. 122). Passing as a woman, and thus not being easily identified as trans in public, can facilitate social acceptance and reduce the risk of transphobic violence (Levitt & Ippolito, 2014). The association between “passing” and safety means that increasing access to health care, including access to hormones, could be an important preventative strategy against violence (Ussher et al., 2020). While living free from violence must not be contingent upon “passing”, this example underscores the importance of removing barriers that allow trans people to make choices about how they affirm their gender.

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