

Standing Committee On Social Issues

Inquiry Into Gay And Transgender Hate Crimes Between 1970 And 2010

Supplementary questions: Dr Andy Kaladelfos and Associate Professor Shirleene Robinson

1. *On page 20 of Hansard it is stated: "There is also a related issue that when abuse has historically been reported, it has not perhaps been labelled as hate-motivated crimes and investigated properly in that particular way." Can there be abuse that does not fit into the category of a hate-motivated crime?*
 1. *If so, please provide examples?*
 2. *If not, why not?*

The definition of 'hate crime' is at the heart of this question. Depending on definitions of hate crimes, certain offences can be excluded or included based upon whether they fit into the current criteria/categories of motive and behaviour within any definition of hate crime.

In Australia, we must currently answer yes to the question of whether abuse exists that does not fit with hate-motivated crime criteria.

Various types of violence and abuse can have a range of motivations: for example, family violence, intimate partner violence, and gender-based violence could be motivated by power, control and sexist gendered beliefs rather than what is currently understood in Australia within the 'hate' criteria.

However, categories of hate crimes are not necessarily standard across all jurisdictions. English and UK scholars and advocates have argued for a number of years for the inclusion of a gender-based category of hate crime. Nottinghamshire Police in the UK has introduced the classification of 'misogyny hate crimes' and UK police chiefs have called for a national roll out of the legislation (<https://www.theguardian.com/world/2018/jul/09/uk-police-chiefs-urged-to-adopt-harassment-of-women-as-hate>)

Once of the difficulties with identifying hate-motivated crimes is the range of intersecting factors that may be found in any incident of violence. For example, Marcus Volke's murder of his partner, transgender woman Mayang Prasetyo, in Brisbane 2014 in which he dismembered and cooked parts of her body in their apartment could well have elements of hate associated with it. The fact that Prasetyo was Volke's partner, the fact that she was woman, the fact she was transgender, the fact she was a sex worker, the fact she was an Indonesian immigrant from an impoverished background: all those factors may have related to Volke's motivation to murder her, to deal with her body in such a violent and grotesque manner after death and in his attempt to conceal the crime.

(<https://www.theguardian.com/australia-news/2017/may/15/mayang-prasetyos-feet-found-in-stock-pot-in-brisbane-flat-inquest-hears>)

2. Regarding the meaning of the word “transgender”, what definition do you believe the NSW Police Force should use for the purpose of training its current and future employees?

a. Can you provide the source (reference) of this definition?

The World Professional Association for Transgender Health (the leading international professional body for transgender health providers) defines transgender as an “adjective to describe a diverse group of individuals who cross or transcend culturally defined categories of gender. The gender identity of transgender people differs to varying degrees from the sex they were assigned at birth” (WPATH, 2001: 95, <https://www.wpath.org/media/cms/Documents/Web%20Transfer/SOC/Standards%20of%20Care%20V7%20-%202011%20WPATH.pdf>).

This definition encompasses these key elements:

- That the gender identity of a transgender person is different to the sex they were assigned at birth.
- That transgender people’s gender identities are diverse, differing in *degrees*, from the sex they were assigned at birth (that is, gender is a spectrum).

Any definition of transgender should encompass these key elements.

Some transgender people may choose to identify as transgender, including the identities trans women or trans men. Other transgender people identify as just women or men. While others too may identify as gender-diverse people including non-binary, genderqueer, or genderfluid identities. These identities differ culturally, for example these can include sistergirls and brotherboys in ATSI communities as well as two-spirit identities. Some transgender people have undertaken medical and social gender-transition while others have not.

For the purpose of policing, a person’s transgender status should be ascertained by their self-disclosure.