



Killings of transgender, gender diverse & intersex persons

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This note details four categories of lethal violence against transgender, gender diverse, and intersex persons on account of their identity, which potentially engage the responsibility of States under international human rights law.¹

I. Killings motivated by gender identity or expression

Around the world, transgender and gender diverse persons face extreme violence on the basis of their gender identity or expression: for instance, a 2021 study found that transgender people are four times more likely than cisgender people to experience violent victimisation in the United States.² In many cases, this violence is lethal: between 1 October 2022 and 30 September 2023, 321 trans and gender diverse people were reported to have been murdered globally. 94% of victims were trans women or trans feminine people, and almost three-quarters of all recorded killings occurred in Latin America and the Caribbean.³ Between 2008 and September 2023, 4,690 murders of trans and gender diverse persons have been recorded globally, with the highest incidences of such violence being reported in **Brazil** (1,841), **Mexico** (701), **United States** (406), and **Colombia** (254).⁴

In some cases, State authorities have been directly involved in the killing of persons on the basis of their perceived trans or gender diverse identity. For instance, in 2017, police in **Saudi Arabia** allegedly murdered two people who identified as *khawaja sara* ('third gender'). Under Saudi law, strict dress codes often lead to the arrest of gender diverse persons. In this case, the victims, Amna and Meeno, were arrested for 'cross-dressing', and were allegedly packed in sacks and beaten to death.⁵ Saudi authorities have denied the allegations.⁶

In 2021, the Inter-American Court of Human Rights found **Honduras** to have violated the right to life of Vicky Hernández, a transgender woman who was allegedly shot in the head by

¹ Compiled with research assistance by students of the Eleos Anti-Death Penalty Clinic.

² Andrew R. Flores, Ilan H. Meyer, Lynn Langton, Jody L. Herman, *Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017-2018* (Report, March 2021) <<https://williamsinstitute.law.ucla.edu/publications/ncvs-trans-victimization/>>.

³ Trans Respect Versus Transphobia Worldwide, *Trans Murder Monitoring 2023 Global Update* (Report, 13 November 2023) <<https://transrespect.org/en/trans-murder-monitoring-2023/>>.

⁴ Trans Respect Versus Transphobia Worldwide, *Trans Murder Monitoring: Absolute numbers (2008 – Sept 2023)* (Web Page, updated November 2023) <<https://transrespect.org/en/map/trans-murder-monitoring/>>.

⁵ Saba Rani, 'Two transgender Pakistanis tortured to death in Saudi Arabia,' *Tribune* (1 March 2017) <<https://tribune.com.pk/story/1342675/two-pakistani-transgenders-tortured-death-33-others-arrested-saudi-arabia>>.

⁶ Brian Whitaker, 'Saudis confirm death of transgender Pakistani following mass arrests,' *Medium* (7 March 2017) <<https://brian-whit.medium.com/saudis-confirm-death-of-transgender-pakistani-following-mass-arrests-168278fe6621>>.



police on patrol during a curfew.⁷ The Court inferred this to be a case of **transfemicide**—the killing of a trans woman motivated by her trans identity—by reference to the pervasive culture of violence against trans women in Honduras, the routine involvement of State authorities in such violence, and the impunity with which such violence is perpetrated.⁸ This was the first time the Court had found a State to be responsible for the death of a woman known to be transgender, setting an important precedent for the region.⁹

In 2020, an **El Salvador** court convicted three police officers of the murder of Camila Díaz Córdova, a transgender woman who they beat and threw from a moving vehicle. These marked the first convictions for murder of a known transgender person in the country's history. Questions have also been raised as to the responsibility of US authorities, who had refused Camila's asylum claim and deported her back to El Salvador.¹⁰

In some instances, killings perpetrated by civilians may be classified as 'State-sanctioned'. For example, several States have enacted laws that distinguish '**honour killings**' from murder, reducing (or, in some cases, removing) criminal culpability on account of the 'honourable' motive of the perpetrator.¹¹ In 2019, authorities in **Iran** released the relatives of a transgender woman who had partaken in her murder, on account of the fact that the perpetrators and the victim were from the same family, meaning nobody was entitled to compensation. A similar case in 2010 saw two brothers released without charge because their father—also the father of the victim—forgave them.¹²

Some States tacitly condone violence against trans people through their facilitation of the so-called '**trans panic**' defence in homicide trials.¹³ Andresen has identified such arguments being raised in 32 cases concerning the killing of trans women in the **United States** between 2000 and 2019.¹⁴ In December 2020, this defence was formally outlawed in **Australia**.¹⁵

⁷ 'Honduras: Court Finds State Responsible for Trans Killing', *Human Rights Watch* (2 July 2021) <<https://www.hrw.org/news/2021/07/02/honduras-court-finds-state-responsible-trans-killing>>.

⁸ *Vicky Hernández et al v Honduras*, Inter-American Court of Human Rights (Judgment, 26 March 2021) at [100].

⁹ Alejandro Fernández Muñoz and Gloriana Rodríguez Álvarez, 'In the Name of Vicky: Prosecuting Transfemicide in Honduras' (2022) 34(4) *Peace Review* 518-528.

¹⁰ Human Rights Watch, "*Every Day I Live in Fear*": *Violence and Against LGBT People in El Salvador, Guatemala, and Honduras, and Obstacles to Asylum in the United States*, (Report, 7 October 2020) <<https://www.hrw.org/report/2020/10/07/every-day-i-live-fear/violence-and-discrimination-against-lgbt-people-el-salvador>>.

¹¹ See e.g., Mai Sato and Christopher Alexander, *State-Sanctioned Killing of Sexual Minorities: Looking Beyond the Death Penalty* (Eleos Justice, Report, February 2021) 61-64.

¹² *Ibid* 62.

¹³ This term is a colloquialism for a legal strategy, generally mounted under the legal guise of 'provocation' or 'self-defence', whereby defendants facing a homicide charge seek to reduce their culpability by blaming their victims' gender identity. For more, see e.g., Sato and Alexander (n 11) 66-69.

¹⁴ W Carsten Andresen, 'Research Note: Comparing the Gay and Trans Panic Defenses' (2022) 32(1-2) *Women & Criminal Justice* 219-241.

¹⁵ Equality Australia, '*Gay panic*' defence to murder abolished Australia-wide (2 December 2020) <<https://equalityaustralia.org.au/gaypanic-defence-abolished/>>.



States are bound by international human rights law to take steps to prevent homicides, whether perpetrated by State or non-State actors.¹⁶ This includes, for instance, the requirement that States address the root causes of gender-motivated killings, such as discrimination and stereotypes.¹⁷ States must also investigate instances of such violence and hold perpetrators to account: in February 2024, a **United Kingdom** court convicted two teenagers of the murder of Brianna Ghey, with the judge identifying the victim's transgender identity as part of the motive.¹⁸

II. Deaths of transgender persons in custody

Transgender and gender diverse persons have unique needs, and face unique violence, in prisons.¹⁹ Transgender persons are often accommodated in prisons according to their birth gender. Especially in cases of trans women, this gives rise to 'extreme physical, sexual and emotional abuse at the hands of inmates and penitentiary or police officials'.²⁰ In 2023, the family of Marjorie Harwood, a transgender woman who suffered routine physical, sexual, and verbal attacks in a men's prison in **Australia**, called for an inquest into her death. Although Marjorie died outside of custody, her legal team argued that her death was the 'indirect result' of abuses faced in prison.²¹

In other cases, transgender women in need of life-saving medical treatment have died in custody due to 'discrimination in and denial of access to essential services'.²² In 2019, Layleen Polanco, a transgender woman incarcerated in a men's prison in the **United States**, died after suffering an epileptic seizure. She had been placed in solitary confinement to separate her from male inmates. Prison staff knew that Layleen had epilepsy, as well as a history of mental health conditions, and were required to check on her every 15 minutes. On the day of her death, prison staff had failed to perform their routine check-ins, leaving Layleen alone for up to 57 minutes at a time. Despite this, the District Attorney confirmed that no charges would be brought.²³

Some deaths of transgender persons in State custody have raised concerns as to physical violence at the hands of State authorities. In May 2022, transgender woman DeeDee Hall died while she was handcuffed and strapped down to a stretcher by police officers en route to a hospital in the **United States**. The officers placed a spit hood over her face, continuing to restrain her while she yelled 'I'm dying' or 'I'm dead'. While her death was ruled an accident, the autopsy report found that the acute heart failure she experienced had been

¹⁶ Agnes Callamard, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings*, UN Doc A/HRC/35/23 (6 June 2017) [57].

¹⁷ Ibid [64]-[67].

¹⁸ Helen Pidd, 'Teenagers jailed for 'exceptionally brutal' murder of Brianna Ghey', *The Guardian* (3 February 2024) <<https://www.theguardian.com/uk-news/2024/feb/02/brianna-ghey-murderers-named-sentenced-to-life-in-prison>>.

¹⁹ See e.g., United Nations Office on Drugs and Crimes, *Handbook on prisoners with special needs* (Report, 2009) <https://www.unodc.org/pdf/criminal_justice/Handbook_on_Prisoners_with_Special_Needs.pdf>.

²⁰ Callamard (n 16) [46].

²¹ Adam Holmes, 'Family of Tasmanian transgender prisoner Marjorie Harwood calls for inquest after Risdon Prison ordeal', *ABC News* (24 October 2023) <<https://www.abc.net.au/news/2023-10-24/family-calls-for-inquest-transgender-prison-marjorie-harwood/103008676>>.

²² Callamard (n 16) [46].

²³ Mahita Gajanan, 'Report: Jail Officials Placed Layleen Polanco in Solitary Confinement Despite Health Concerns, Failed in Duty of Care', *TIME* (24 June 2020) <<https://time.com/5858514/layleen-polanco-rikers-island-solitary-confinement/>>.



complicated by how she had been restrained.²⁴ In 2000, Vanessa Lorena Ledesma, a transgender woman, died in custody in **Argentina**. While a police report recorded that she had passed away due to cardiac arrest whilst in custody, severe bruising and other signs of torture were discovered following an autopsy.²⁵ Investigation into the cause of death was halted by authorities, on the grounds that her death was not the result of any illegal action.²⁶

III. Killings of intersex babies

In several African countries, intersexuality is associated with witchcraft and bad omens, leading to the abandonment and killing of babies born with intersex characteristics.²⁷ Such infanticides have been recorded in **Kenya**,²⁸ **South Africa**,²⁹ **Uganda**,³⁰ and **Zimbabwe**,³¹ among other countries. These killings are typically carried out by families or medical staff in the immediate aftermath of the birth: a study carried out in South Africa between 2008 and 2010 found that 88 of 90 traditional birth attendants and midwives interviewed admitted to having ‘gotten rid of’ infants with apparently intersex characteristics.³² Given the stigma associated with intersexuality, and the covert nature of baby dumping and infanticide, many of these cases remain unreported.³³ Similar killings have been reported in **Nepal**,³⁴ and in **China**,³⁵ as has violence against intersex youth and adults.³⁶

²⁴ Maggie Prosser and Kelli Smith, ‘Grand jury doesn’t indict Dallas officers, medic after transgender woman’s death’, *Dallas News* (11 May 2023) <<https://www.dallasnews.com/news/courts/2023/05/11/grand-jury-doesnt-indict-dallas-officers-medic-after-transgender-womans-death/>>.

²⁵ *Crimes of hate, conspiracy of Silence: Torture and ill-treatment based on sexual identity* (Report, ACT 40/016/2001) <<https://www.amnesty.org/es/wp-content/uploads/sites/9/2021/06/act400162001ar.pdf>>.

²⁶ ‘Argentina: Vanessa Lorena Ledesma and repeated threats to other transvestites in the Province of Córdoba,’ *Amnesty International* (Report AMR 13015/01, 31 May 2001) 2 <<https://www.amnesty.org/en/documents/amr13/015/2001/en/>>.

²⁷ Centre for Human Rights (University of Pretoria), *Study on the Human Rights Situation of Intersex Persons in Africa* (Report, 2022) 15

<https://www.chr.up.ac.za/images/researchunits/sogje/documents/Intersex_Report/Intersex_report_Oct_Sept_2022.pdf>; United Nations Office of the High Commissioner for Human Rights, *Human Rights Violations Against Intersex People: A Background Note* (Report, 2019) 24-25 <<https://www.ohchr.org/en/documents/tools-and-resources/background-note-human-rights-violations-against-intersex-people>>.

²⁸ Helen Grady and Anne Soy, ‘The midwife who saved intersex babies’, *BBC News* (4 May 2017) <<https://www.bbc.com/news/world-africa-39780214>>.

²⁹ Carl Collison, ‘Intersex babies killed at birth because ‘they’re bad omens’, *Mail & Guardian* (24 January 2018) <<https://mg.co.za/article/2018-01-24-00-intersex-babies-killed-at-birth-because-theyre-bad-omens/>>.

³⁰ U.S. Department of State, *2023 Country Reports on Human Rights Practices: Uganda* (Report, 2023) 40.

³¹ Intersex Community of Zimbabwe, Zimbabwe Intersex Movement, Intersex Advocate Trust in Zimbabwe, Rise Above Women’s Organization, NNID Foundation, *The Right of Intersex Women and Girls in Zimbabwe: NGO submission for the 75th session of the Committee on the Elimination of Discrimination Against Women* (January 2020).

³² Foundation for Human Rights, Department of Justice and Constitutional Development and Intersex South Africa, *National Dialogue on the Protection and Promotion of the Human Rights of Intersex People* (Report, 2018) 13 <<https://www.justice.gov.za/vg/lgbti/2018-NationalIntersexMeetingReport.pdf>>.

³³ National Council on the Administration of Justice, *Report on the Status of Intersex Persons in The Criminal Justice System in Kenya* (Report, n.d.) 12 <https://www.knchr.org/Portals/0/REPORT-ON-INTERSEX-PERSONS%203_1.pdf>.

³⁴ Committee on the Elimination of Discrimination against Women, *Concluding observations on sixth periodic report of Nepal*, UN Doc CEDAW/C/NPL/CO/6 (14 November 2018) para 18(c).

³⁵ United Nations Office of the High Commissioner for Human Rights, *Human Rights Violations Against Intersex People: A Background Note* (Report, 2019) 25 <<https://www.ohchr.org/en/documents/tools-and-resources/background-note-human-rights-violations-against-intersex-people>>.

³⁶ *Ibid.*



This violence is systemic, born of pervasive social and cultural beliefs. While such killings may not be perpetrated by the State, a failure to protect the lives of infants despite evidence of such widespread and deep-rooted violence raises concerns. Various UN human rights bodies have called on States to respond to such violence, recommending that they:

1. Address discriminatory attitudes and stigma towards intersex persons, including through comprehensive awareness-raising and sensitisation activities,³⁷
2. Adopt legislation prohibiting all forms of harmful traditional practices,³⁸ and
3. Investigate and prosecute the perpetrators of such practices, impose adequate sanctions, and compensate victims.³⁹

In 2024, the UN Human Rights Council adopted a resolution calling on States

in collaboration with relevant international and regional organizations, to enhance efforts to combat discrimination, violence and harmful practices against persons with innate variations in sex characteristics and to address their root causes, such as stereotypes, the spread of misconceptions and inaccurate information, stigma and taboo...⁴⁰

The UN Office of the High Commissioner for Human Rights has identified good practices in **Kenya**:

In Kenya, the National Commission on Human Rights (KNCHR) published a report in 2018 on the rights of intersex people, which recognised “an urgent need for the government to investigate the frequency and the cause of intersex child deaths due to medical neglect and infanticide, and to develop a strategy to preserve this most basic right, the right to life”.

The KNCHR report recommended, inter alia, that “The National Crime Research Centre in conjunction with the police carry out a nation-wide study on the issue of intersex infanticide and child abuse in order to assess the scope of the problem and come up with a strategy to protect these vulnerable children”.⁴¹

³⁷ Human Rights Committee, *Concluding observations on the fourth periodic report of Kenya*, UN Doc CCPR/C/KEN/CO/4 (11 May 2021) para 13(b).

³⁸ Committee on the Elimination of Discrimination against Women, *Concluding observations on sixth periodic report of Nepal*, UN Doc CEDAW/C/NPL/CO/6 (14 November 2018) para 19(b).

³⁹ *Ibid.*

⁴⁰ United Nations Human Rights Council, *Combating discrimination, violence and harmful practices against intersex persons (Resolution adopted by the Human Rights Council on 4 April 2024)*, UN Doc A/HRC/RES/55/14 (8 April 2024).

⁴¹ United Nations Office of the High Commissioner for Human Rights, *OHCHR Technical Note on the Human Rights of Intersex People: Human Rights Standards and Good Practices* (2023) <<https://www.ohchr.org/sites/default/files/2023-11/ohchr-technical-note-rights-intersex-people.pdf>>.



IV. Deaths linked to inaccessible gender-affirming surgeries

Gender-affirming surgeries are, in many cases, lifesaving: a 2015 study found that 44% of those who had undergone gender-affirming surgeries reported a reduction in suicidal ideation.⁴² But in many countries, such procedures are inaccessible.

In some cases, this is because gender-affirming care is outlawed or fraught with legal obstacles. The case of Ezz Eldin demonstrates the potentially fatal implications of a State's failure to ensure accessible healthcare. In August 2021, Eldin, a 26-year-old transgender man, bled to death after he was prematurely discharged from his gender affirmation surgery in an underground clinic in **Egypt**. As Human Rights Watch explains, his death was the product of a system that refuses to recognise or protect transgender persons:

[W]hat should have been a life-affirming surgery instead became a life-threatening procedure in an unauthorized clinic. A dysfunctional, discriminatory system left him with no surgical alternative. This is the situation for transgender people in Egypt who are denied access to appropriate health care under a government that discriminates against them and withholds legal gender recognition.⁴³

Although gender-affirming procedures are not formally proscribed under Egyptian law, authorities have prosecuted doctors having performed such operations on alternate charges, such as 'causing permanent disability'.⁴⁴

Elsewhere, access to such healthcare is stymied by financial barriers. In **Australia**, gender-affirming surgery is prohibitively expensive, at over \$20,000AUD (approximately \$13,000USD). A recent study of trans people in Australia found that 43% reported having attempted suicide—a significantly higher rate than that of the general Australian population. The same researchers found that desiring but not having undergone gender-affirming surgery is associated with a 71% higher chance of a lifetime suicide attempt.⁴⁵ In November 2023, the Victorian Coroners Court opened an inquest into the suicides of five young trans and gender diverse persons, all of whom had completed or were undergoing gender affirmation.⁴⁶

⁴² 'Mental health benefits associated with gender-affirming surgery', *Harvard School of Public Health* (2021) <<https://www.hsph.harvard.edu/news/hsph-in-the-news/mental-health-benefits-associated-with-gender-affirming-surgery/>>.

⁴³ Nora Noralla, 'A Discriminatory System Killed a Transgender Man in Egypt', *Human Rights Watch* (10 November 2021) <<https://www.hrw.org/news/2021/11/10/discriminatory-system-killed-transgender-man-egypt>>.

⁴⁴ *Ibid.*

⁴⁵ Ada Cheung and Sav Zwickl, 'Why Have Nearly Half of Transgender Australian Attempted Suicide?', *University of Melbourne* (23 March 2021) <<https://pursuit.unimelb.edu.au/articles/why-have-nearly-half-of-transgender-australians-attempted-suicide>>.

⁴⁶ Emma Brancatisano, 'The devastating loss of five trans and gender diverse Victorians to be examined', *SBS News* (27 November 2023) <<https://www.sbs.com.au/news/article/the-devastating-loss-of-five-trans-and-gender-diverse-victorians-to-be-examined/al2d8cscr>>.