

Transgender and Transsexual Identities: The Next Strange Fruit—Hate Crimes, Violence and Genocide Against the Global Trans-Communities

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ABSTRACT

In this paper, we review the literature on global transgender hate crimes, violence, and abuse. We point out that it is possible to infer that this problem is not localized to the United States but rather, represents a global pandemic of focused prejudice. We point out that it can be viewed not only as an extremely serious and immediate public health problem, but also as genocide against a consistently invisibilized minority population. We provide concrete examples from the researchers' field studies as well as from the published literature.

I. INTRODUCTION

A. *Overview*

1. Normative Understandings

Typically, “gender-based violence” or “gender violence” is understood to mean any form of violence against women (WHO, 2007). However, the implicit definition of “woman” is based upon reproductive (gonadal) genitalia and the social construction of personhood/identity via the binary social edifice resulting from the gonadal status of the individual. Thus, it is rare for gender-based violence research to include non-normative (i.e., non-Western) or non-traditional gender identities (androgeny, agendered, gender-benders, gender-blending, etc.; see Witten & Eyler, 1999; 2007abc) and their resultant sexualities, pair-bonding, or socioeconomic and demographic status.

It follows that little is known about violence against these communities. Moreover, what is known is gathered either through anecdotal evi-

dence or through a few (though growing number of) surveys and indicates that the violence against these communities is significant, increasing, and constitutes a serious public health problem in the U.S. (Witten & Eyler, 1997). Moreover, the treatment of the transgender population, with respect to violence and abuse, could be viewed, under the Convention on the Prevention and Punishment of the Crime of Genocide (1951, article 2, items a, b, & c), as crimes of genocide against the transgender-community members in the U.S. and other countries. We begin with a brief discussion of “hate” as it applies to this population, followed by a short overview of the transgender-identified community.

II. DIFFERENTIATING ANTI-TRANS VIOLENCE FROM OTHER TYPES OF VIOLENCE

Before we can truly understand what differentiates a hate crime from any other crime, we must first understand what is meant by the term “hate” and how that understanding applies to the trans-identified population. Academicians, politicians, activists, the media, and the general public do not always use the word “hate” with uniformity (Perry, 2005, 2006). Recently, critics of hate crimes laws have adopted an emotive, individualized conception of “hate,” saying that to prosecute a hate crime is to criminalize “thought” and “belief” (Rosebury, 2003, p. 37). This interpretation misguidedly conflates the phrase “hate crime” with any crime “motivated by dislike of another person.” Perry points out that hate crimes are not about emotive responses only, but also are about power and asserting one’s own identity over the identity of another. She also demonstrates that reducing a hate crime to an emotional dislike of another narrowly pathologizes the perpetrator as an unstable individual acting out irrationally when, in reality, “racist or gendered violence, for example, is not aberrant. It is not unusual or abnormal in cultures like ours, that is, in cultures which are permeated by bigotry and prejudice” (p. 125).

In the song “Strange Fruit,” written by Lewis Allen and published in 1937, the writer expresses his horror at the 1930 lynchings of two black men named Thomas Shipp and Abraham Smith. While there are no “bodies swinging in the southern breeze” and we don’t see the “bulging eyes and the twisted mouths” of the trans-community members murdered over time, the following examples of violence against some community members, as well as those listed on the Remembering our Dead website (2007), document the degree of similarity between these lynchings and modern day violence against the transgender-identified community. In order to initiate our discussion, consider the following examples of actual anti-transgender hate crimes:

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—August 12, 2002: Two male-to-female transgender teens were shot ten times as they sat in the front seat of their vehicle in a Washington, D.C. neighborhood. This was the third transgender shooting in Washington, D.C. that week (Fahrenheit, 2002).

—October 4, 2002: A 15-year-old male-to-female transgender woman named Gwen Araujo was beaten, tied up, and strangled by four men in Newark, California after her biological sex was revealed. Two of the convicted perpetrators had sex with Araujo during the summer of 2002 (Locke, 2006).

—December 6, 2003: A female-to-male transgender man, Lucas McCauley, left a Largo, Florida night club with William McHenry. Later, while at McCauley's home, McHenry stabbed the transgender man to death. Authorities did investigate this as a hate crime (Johnson, 2006).

—September 13, 2007: "A transgender person was thrown through a plate-glass window" in Washington, D.C. (Schrank, 2007). No other information was found to have been reported in the mainstream local or regional media.

—Summer 2005: Three transgender people were sexually assaulted at gunpoint in San Diego, California. The Associated Press (2006) reports that prosecutors felt the perpetrator "preyed on people who were less likely to report crimes and threatened to kill some."

—October 29, 2006: After leaving a Washington, D.C. nightclub with a man, a transgender woman was punched by her companion. The assailant also wrapped his belt around the victim's neck and took her purse. All of this occurred after he discovered the victim's biological sex (The Washington Post, 2006).

One 50-year-old male-to-female postoperative transsexual reported (in Wave 1 of the TranScience Longitudinal Aging Research Survey), "Every time I leave the house I leave with three strikes against me. I can be raped for being a woman. I can be raped and murdered because I am perceived as 'gay' (a drag queen) or I can be violently murdered because I am read as trans." From these examples (along with the upcoming examples) and the many other cases of anti-transgender hate violence reported in the United States, two basic trends seem to emerge. These trends appear to differentiate anti-transgender hate violence from other types of crime.

First, the motive behind each of these above crimes lies, first and foremost, in the transgender identity of the victim coupled with the perpetrator's sense of betrayal and disgust when the victim's natal genital sex is revealed. Consider the October 2006 crime cited above, in which perpetrators took money or other belongings from their victims. Based on the

Washington Post's (2006) report of the crime, theft was a secondary crime committed only after addressing the perpetrator's feelings of betrayal and disgust upon discovering that his female-identified companion was biologically male.

Secondly, the goal of these attacks is not principally to harm or even to simply murder the victim. Instead, the actions of many perpetrators in anti-transgender hate crimes point to a desire to eradicate the transgender-identified individual in order to alleviate the perpetrator's disgust and to avenge the sense of betrayal that precipitated the attack in the first place.

Two pieces of evidence support this conclusion. The first is the level of violence used in the murders and assaults of transgender victims, the intensity of which is striking. Actual examples include throwing the victim through a window, strangulation with a belt, and group-rape. These methods are to be seen as indicators of a desire to deface and mutilate the bodies of transgender people because they challenge the normative world-view of the perpetrator with respect to gender. While non-transgender identified individuals are sometimes subjected to similar treatment, and while it is epidemiologically not possible to prove that the trans rates are significantly higher than the non-trans rates, due to the general invisibility of the transgendered population and the lack of reporting of transgender-related hate crimes (Witten, 2003, 2004; Witten & Eyler, 1997; Lombardi, Wilchins, Priesing, & Malouf, 2001), it is generally understood within the trans-population that

transgendered individuals can enrage others by their mere existence. . . . The extent of this violence should not be under-estimated. In my five years in Atlanta, there have been no fewer than 10 violent deaths of transgendered persons reported in the press. Six of these were the apparent work of a serial killer (victims were shot and dumped in various locations) . . . The extent to which transgendered persons are devalued by our society becomes apparent when one considers that the last time such a large number of persons were serially murdered in Atlanta, the entire nation was in an uproar about the Atlanta child killings. (Denny, 2007, para. 12)

Witten and Eyler (1997) point out that

Perpetrators often believe that a person who transgresses the norms of gendered sexuality, either by engaging in sexual relationships with members of the "*non-opposite*" gender, or by behaving "*as*" the other gender, is deviant or morally defective, and thus a deserving victim of violence and aggression. Xenophobic elements, such as the persecution of trans-genders [sic] by neo-Nazis, have also been reported, as has a preference by assailants, in some cases, for attacking male-to-female transgenders

[*sic*] or transsexuals who are members of racial minorities. The degree to which these elements (gender, sexuality, and race/ethnicity) converge in the decision by assailants to attack transgendered persons is presently unknown. (p. 3)

The second piece of evidence for this goal of annihilation is the visceral disgust described by many perpetrators. Such a psychosomatic response is best exemplified by Jose Merel, convicted of manslaughter in the killing of transgender teenager Gwen Araujo. Merel was reported to have “vomited and wept when he discovered Araujo’s biological identity, slapping her and hitting her with a glancing blow with a pan” (Locke, 2006). The desire to remove from society that group of people which provokes such disgust is what appears to motivate perpetrators to carry out acts of such uncharacteristic brutality. Sadly, it is not possible to interview most of the perpetrators of such crimes, as the crimes are frequently not reported or, if reported, are not reported as transgender-related crimes (Witten & Eyler, 1997; Witten, 2007b). Thus, we can only conjecture that a visceral disgust is a principal component of the violence.

The high degree of perceived/actual violence and abuse against the trans-community suggests that the hypothesis is not without grounds. For example, in Wave 1 of the TLARS survey, 66% of the respondents indicated that they had suffered some form of abuse, mistreatment, and/or violence perpetrated against them in social settings and of those, 70% indicated that they felt it was hate crime-related. We will return to this discussion in a moment, broadening it to include other examples of violence and abuse. However, in the next section, we provide a brief overview of the variety of non-traditional (non-Western) identities that are included in the broad interpretation of the transgender community as a whole.

III. OVERVIEW OF TRANSGENDER IDENTITIES

The traditional Western biomedical construction of identity routinely conflates sexuality, gender, and birth body or “birth sex/reproductive sex” (Basu, 2000; Doyal, 2001; Greenberg, 1998; Grant, 2001; Pesquera, 1999; Pryzgodna & Chrisler, 2000; Witten, 2004, 2005; Witten & Eyler, 1999). A trivial example is the conflation of sex and gender on numerous medical forms worldwide that routinely ask for “gender” when they obviously mean “birth sex/birth body” (Witten, 2005). Furthermore, even if they ask for birth sex, they provide only the two choices of male and female, thereby ignoring the existence of the world-wide intersex population (ISNA, 2007).

Transgender is a term used broadly “to describe people who transcend the conventional boundaries of gender, irrespective of physical status or

sexual orientation” (Feldman & Bockting, 2003). The term is used to refer to groups such as transsexuals, cross-dressers, drag queens, drag kings, and gender queers, as well as myriad other members of the “gender community” (a phrase found in Kidd & Witten, 2007; Sims, 2007; Witten & Eyler, 1999; Witten & Eyler, 2007; Witten, 2003). However, it is important to understand that these terms are dynamic in location, cultural interpretation and context, in time, and in personal/political meaning, and therefore must always be carefully applied. The construct of an essential gender, gender identity, or gender self-perception becomes seemingly absurd when one considers the breadth and diversity of gender constructions in this community. A normative, binary conceptualization of essentialized gender duality espouses that each person falls neatly into either a male or female gender/sex category. Under this system, each category also carries with it a set of innate rules that govern every facet of an individual’s life from dress to mannerisms, from sexual orientation to social roles. Furthermore, this paradigm holds that one’s gender is inherently immutable. There is no blending or overlap either between the male-female categories themselves or among the various constituent socio-political roles associated with each gendered/sexed identity. Such a system falls exceedingly short when attempting to categorize the material existences of transgender and gender-variant people. For example, how would one apply a binary gender system to a biologically XY-male individual who identifies as a gay but who performs fulltime as a drag queen and has undergone surgery to acquire breasts and more feminine facial features? Like most binary systems, the rigid male-female conceptualization of gender proves reductionist when applied to the more complex “gray areas” of Western culture. Moreover, when one includes non-Western identities such as the Hijra of India/Pakistan, the Fa’afafine and Fa’afatama of Tonga/Samoa, or the Mak Nyah of Malaysia, it is easy to see that gender constructs span a broad variety of body form, sex, and sexual identities. A larger discussion may be found in Witten (2007).

B. *Estimating Population Sizes of Transgender-Identified Individuals:
Understanding Hate Crime Statistics in an Invisible Minority*

In order to obtain accurate hate crime statistics concerning people who identify as transgender, it is essential not only to be able to identify who those people are, but also to be able to count them (Nolan, Akiyama & Berhanu, 2002). Because of the breadth of gender constructs and the stigma associated with outwardly identifying as a member of the trans-community, the exact number of transgender-identified individuals is difficult to estimate (Witten & Eyler, 1999; Witten, 2003). An international survey administered by Witten and Eyler (1999) found that 8% of the TranScience

Longitudinal Aging Research Study (TLAR) survey respondents identified their gender identity as something other than completely feminine or masculine. Based upon these estimates, Witten (2003) projected a range of 4.1-12.3 million elder transgender-identified persons (65 years and older) worldwide. Her work did not include the various cultural conceptualizations of the term “transgender” discussed in Witten and Eyler (2007ab) and is therefore likely to underestimate the actual size of the global elder transgender-identified population. Moreover, the overall transgender-identified population, worldwide, may exceed 20 million when all cultural definitions are included.

C. *Violence, Abuse and Hate Crimes*

A *hate crime* is defined by Black’s Law Dictionary (Garner, 1999) as “a crime motivated by the victim’s race, color, ethnicity, religion or national origin.” In recent decades, states such as California, Connecticut, Hawaii, Minnesota, Missouri, New Mexico, Pennsylvania, Iowa, Oregon, Vermont, and New Jersey have expanded hate crimes legislation to include gender identity, gender expression, sex, disability, and/or sexual orientation (Transgender Law and Policy Institute, 2006; National Center for Transgender Equality, 2007). In addition, the Local Law Enforcement Hate Crimes Prevention Act of 2007 has cleared the U.S. House of Representatives and, if passed, would add “gender identity,” and thereby transgender people, to the list of protected classes of people protected by the federal hate crimes statute. However, the recent exclusion of the transgender category from the federal Employment Nondiscrimination Act indicates that there are still significant obstacles to federal inclusion of transgender identities.

D. *Anti-Lesbian, Gay, & Bisexual Hate Crimes — A Bridge to Analyzing Anti-Transgender Violence*

Hate speech and hate violence are frequently experienced by members of the gay and lesbian community. In an early study of 125 lesbians and gay men, nearly three-fourths (75%) of the study respondents had experienced hate speech (D’Augelli, 1989). Another study (Comstock, 1989) found that half of the lesbians and gay men surveyed had experienced physical violence. The frequency of incidents among the study’s participants was also found to be higher for lesbians and gay men of color as compared with white individuals.

Frequently, the overt actions and speech of perpetrators of anti-gay and anti-lesbian hate violence resemble those of anti-transgender offenders

(Witten & Eyler, 1999). This similarity is rooted in the commonality of the two groups' transgression of traditional gender norms, whether this takes the form of sexual intimacy with a person of the "non-opposite" gender or whether one's own gender identity is considered non-normative under the binary gender system. Minter (2007) proposes that this similarity is rooted in the perpetrators' ignorance concerning transgender identities and experiences. In addition, reporting rates of hate crimes against sexual and gender minority individuals may differ from those regarding other types of hate crimes because LGBT victims must essentially "come out" before reporting an anti-LGBT hate crime (Rubenstein, 2002, p. 72). Despite these similarities, Witten and Eyler (1999) concluded, from both anecdotal and survey evidence, that transgender people were simultaneously more likely to be victimized and less likely to have access to consequent medical care and legal services.

E. Prevalence of Anti-Transgender Hate Crimes

Hate crimes, violence, and abuse are facts of life for a great number of transgender-identified individuals. Witten and Eyler (1999) state that in a snowball sample of 213 transgender-identified individuals from the TLAR survey (sample age range 20-85 years, $m = 39.6$ years, $\sigma = 11.1$ years, primarily Caucasian, middle-to-upper class, male-to-female transgender-identified persons), there was a high degree of perceived and actual violence and abuse suffered (91% of the respondents, Table 1). Sadly, much of this abuse and violence is suffered prior to the age of eighteen years, and is of both multiple category and multiple occurrence. Of the 86 respondents answering the question on abuse before the age of 18, 60 of the respondents (69.76%) stated that they had suffered some sort of violence or abuse (multiple choices of form of violence/abuse could be checked) prior to age 18. Furthermore, the top perpetrators of this violence/abuse were—in order of importance—the father, another adult, a relative, the mother, or a peer.

Within the overall trans-community, there are many sub-populations. One of the least visible has been the female-to-male transgender-identified individuals. Female-to-male (FTM) transgender individuals typically respond well to hormonal treatment, masculinizing relatively quickly and effectively. Other than typically being short in stature, they "pass" very well. However, this does not protect them from the abuse and violence associated with being transgender-identified. In a recent study by Kidd and Witten (2007) that investigated violence in the FTM population, 33 surveys were distributed to members of two FTM support groups in Virginia, of which 13 were returned (a 39% response rate, mail survey). While this sample size is small and possibly non-representative, it merits consideration

for its possible heuristic value, being one of the first studies of its kind to investigate specifically the experiences of FTMs with regard to hate violence.

Nine of the thirteen respondents (69.23%) reported some form of social mistreatment, ranging from verbal abuse to sexual violence (including rape) to physical violence (multiple choices of form of violence/abuse could be checked). Collectively, these nine respondents reported experiencing *at least* 439 violent incidents (Table 2). The phrase “at least” is used because some of the respondents gave ranges as to the number of times they experienced a particular type of mistreatment. The number 439 represents the total frequency of violent incidents using the lower number of the ranges provided by respondents. Respondents were given 11 categories of violence from which to choose, including the categories of verbal abuse, following, stalking, individual and gang mugging, threatening, beating, sexual harassment, sexual abuse, attempted rape, and rape. All eleven of these categories were represented in the incidents collectively reported by the respondents. Consider the following quotations from both the TLAR and the FTM survey (spelling and grammar preserved as written):

—When I was about 14, a boy (stranger) asked me if I were a boy or a girl. When I didn’t answer, he threatened to shove his hand in my pants, “to see if there is a hole there.” I punched him and ran.

—Once arrested and had police physically assault, sexual abuse (inappropriate touching, removing my clothing in front of other inmates) and repeatedly threaten to rape me, due to my ambiguous gender presentation.

—The abuse was exploitation by a brother. I was defrauded of money (approx. \$2000) and though I would not have taken action to recover it, he assured my silence by threatening to present a letter to my employer and “outing” me. I would call it extortion. It was several yrs ago. Not reported to authorities. Family members voiced their disapproval.

—Stabbed in eighth grade by schoolmate mugged by a group in 1973. While crossdressed verbally abused 1995, 1990.

Other researchers have corroborated what these two studies show. Lombardi, Wilchins, Priesing, and Malouf (2001) reported overall transgender violence rates where 59.5% of the sample experienced either violence or harassment (26.6% experienced a violent incident, 14% reported rape or attempted rape, 19.4% reported assault without a weapon, 17.4% reported having items thrown at them, and 10.2% reported assault with a weapon) and 37.1% reported some form of economic discrimination. The

National Coalition of Anti-Violence Programs (2005) found that 10% of the crimes tracked by the organization in 2004 had transgender victims. While this number represents a 3% decline from the 2003 report, the researchers noted that the decline may actually be a result of many transgender people attempting to remain undetected (go stealth) rather than of an actual decrease in anti-transgender attitudes. This conclusion is not surprising, given the perceptions and experiences illustrated in the following cross-sectional sample of quotations from both the longitudinal TLAR survey and from this FTM survey (grammar and spelling retained as written):

—I live in the worst neighborhood in Vancouver the only way I will ever be safe is to get off welfare and move away from the East Side. I have been a target all my life and don't know how to avoid or deflect the unreasoning hatred that permeates all levels of society.

—Mugged in NYC by a gang of black people who took all my cash. Brutally sexually mutilated in what the police said was a "drug related" hit on the wrong person. Police didn't consider it serious enough to follow up on even though my penis was bisected several centimeters with a knife or razorblade. Numerous assaults while growing up.

—Was sexually harassed at work place, employer and employees found out that I was a transsexual, and co-workers tried to find out if I was really a man or woman by grabbing at my chest and hair and other body parts.

The organization Gender Education and Advocacy (2005) reports another sobering statistic: "Over the last decade, more than one person per month has died due to transgender-based hate or prejudice, regardless of any other factors in their lives" (About the Day of Remembrance, para. 3).

F. *Statistics on the Characteristics of Anti-Transgender Hate Violence*

While each person's experience of anti-transgender hate violence is unique, research has provided insight into similarities among and predictors of these violent acts. Four primary themes emerged after a review of the literature.

The first theme that became apparent was that the majority of anti-transgender hate crimes studied took place in social settings. According to the findings of the TLAR, such acts take place in the workplace, on the street, in bars, or in any other public, interpersonal scene. Religious institutions, educational settings, other public environments, organizations, and institutions were also included as options in this section. When asked whether the respondents had had any acts of mistreatment, abuse, or vio-

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Table 1a. *Prevalence of Violence Types Among Respondents to the TLAR Survey*

Violence Type	n =	%
Physical	62	25%
Emotional	91	37%
Sexual	26	11%
Neglect	35	4%
Exploitation	11	5%
Not Applicable	22	9%

Table 1b. *Prevalence of Respondents Citing Violence as Hate Crime Related (TLARS Study)*

Violence Type	Percentage of TLARS Respondents
Street Harassment	48%
Followed/Stalked	41%
Mugged	29%
Beaten	39%
Sexual Harassment	23%
Sex Abuse/Attempt	15%
Rape	6%

lence perpetrated against them in social settings, survey participants responded as follows: Yes ($n = 89$; 66%), No ($n = 42$; 31%), and Not Applicable ($n = 4$; 3%; total $n = 135$). Consider the following statements from the FTM survey (grammar and spelling retained as written):

Police verbal: paraded around police station for amusement - "This guy is really a woman." Police also informed my employer of my transsexualism. I had been stopped and asked for ID - There had been no crime nor suspicion of crime, just a request for I.D. I had a female drivers license, so I was taken into custody for proof of identity. Released without charges.

Verbally: told directly and through others that I should be killed (murdered).

Beaten/Hit: Once during physical endurance (job) training an instructor was disgusted with me for working out with the men and punched me in the face.

The second theme emerged in a report by Lombardi et al. (2001), who

Table 2. *Violent Incidents Reported by 9 of the 13 Respondents Who Had Experienced Social Mistreatment of Some Sort. Total Reported Incidents Exceeds n = 439*

Type of Abuse	Frequency Reported	Minimum Percentage
Verbal Abuse	292	66.51%
Followed	13	2.96%
Stalked	4	< 1%
Mugged (individual)	4	< 1%
Mugged (gang)	2	< 1%
Threatened	24	5.5%
Beaten/Hit	30	6.83%
Sexually Harassed	38	8.66%
Sexually Abused	7	1.59%
Attempted Rape	10	2.28%
Rape	15	3.42%

concluded that socioeconomic status was among the best predictors of a transgender person’s experiencing violence. Among the factors noted as contributing to this trend were homelessness as a result of parental disapproval of the youth’s gender identity and the resultant survival crimes such as sex work which may be undertaken, along with all of the associated health and personal risks (Denny, 2007; Lombardi et al., 2001; Witten & Eyler, 1999).

The third theme to emerge was the lifelong occurrence of hate violence in the biographies of many transgender individuals (Witten & Eyler, 1999; Witten, 2004). Because transgender people often exhibit non-normative gender behavior in childhood, many are victimized by parents, relatives, and others (see previous discussion of abuse and violence before the age of 18). On the other end of the spectrum, elderly transgender people were also noted as victims of abuse and/or violence as their access to medical and mental health services is often reduced because of their transgender status (Bradley, 1996; Cahill, South, & Spade, 2000; Cooke-Daniels, 1995; Witten, 2002, 2003, 2004, 2005ab; Witten & Whittle, 2004). Consider the following examples drawn from the work of Witten & Whittle (2004) and discussed more extensively therein:

Case 1: UK — James, a trans-man of 71 who had undergone chest reconstruction but not genital surgery, was in the stages of early Alzheimer’s. He was placed within a local authority care home where every other client was female. The staff at the care home was very uncomfortable with meeting his bodily needs and was very unhappy with

his constant removal of his incontinence pads. They had also taken to not passing on his post which included a support group magazine, deciding that he was not able to read and understand it. A local volunteer visitor contacted a support group after discovering James very distressed.

Case 2: US — laughed at by emergency staff — treated unnecessarily roughly and ignored during hospitalization. (63-year-old Male-to-Female trans-person)

The fourth theme was the level of underreporting that accompanied victimization of transgender people. Respondents of the TLAR survey were asked to identify whether they had ever told another individual about the violence, abuse, or mistreatment that they had experienced and to whom these events had been reported. Of the $n = 121$ participants who answered this question, $n = 93$ (77%) indicated that they had told others of their abuse experiences, and $n = 28$ (23%) stated that they had not. With respect to reasons for non-reporting (total $n = 132$; multiple responses permitted), $n = 28$ (21%) indicated that they were afraid to report for fear of reprisal by the perpetrator, $n = 14$ (11%) feared abuse by the medical/legal system, $n = 5$ (4%) were unable to report, $n = 38$ (29%) felt that it would not make a difference if they had reported the incident or incidents, $n = 10$ (8%) wanted to protect the perpetrator, and $n = 22$ (17%) indicated that there had been reasons other than those listed.

The FTM survey of Kidd and Witten (2007) further confirmed this underreporting. Of the nine FTM respondents (69.23%) who reported social mistreatment of some sort, nearly all (8 of 9, 88.89%) said their experiences matched the following operational definition of a hate crime given to them in the survey: “abuse, harassment based on bigotry or bias with respect to one’s actual or perceived race, religion, ethnicity, disability, sexual orientation or gender identity or expression. This can take a physical, verbal, emotional, or sexual form.” Nonetheless, not one of the 9 victimized respondents reported their collectively 439 violent victimizations to law enforcement. These statistics illustrate the existence of a description or perception incongruence among respondents with regard to violent incidents. Despite being able to provide very graphic descriptions of highly traumatic events, none of the respondents felt their victimization warranted reporting. Some respondents also indicated that these incidents, which appear very serious, were in fact nearly inconsequential, and therefore did not merit reporting. Table [3] lists the reasons given by the FTM survey respondents for not reporting the hate violence they experienced. Fear of reprisal and fear of abuse from the police and legal systems were frequently mentioned in both the TLAR and the FTM survey comments:

—Arrested a few yrs ago for possession of cocaine—I was verbally harassed by police (“you mean you have a pussy and not a dick?”) and forced to pull my pants down in front of 4-5 cops to prove my gender status. 4 yrs ago at a demonstration cops began beating on me with clubs.

—[re a lawyer] He took my \$600 and failed to take any action on my behalf.

Rubenstein (2002) also highlights the underreporting of anti-LGBT hate crimes. He points out that, unlike victims of hate crimes based on race or sex, LGBT victims must essentially “come out” to law enforcement in order to report victimization. This public openness with regard to one’s transgression of heternormative, binary sexual and gender norms can itself carry risks and actually increase the likelihood of future hate crime victimization (Kidd & Witten, 2007; Witten & Eyler, 1999).

Table 3. *Respondents’ Comments About Their Reasons for Not Reporting Social Mistreatments*

“Did not consider the actions to be criminal-either due to nature, or age of parties involved. Mine included.”

“It was my own situation to deal with, and no two of those situations were ever alike.”

“didn’t want to make the situations worse, unsure of how sensitive the law would be to my situation or if it would help @ all” [*sic*]

“It felt pointless. I don’t think they could’ve really done anything except make me feel worse about it.”

“nothing would have been done about it” [*sic*]

“Minor offenses—name calling, etc. not worth reporting”

“For street harassment-did not think police would take it seriously or do anything about it. Did not report the assault or threats to the police because I did not think I would be believed, or treated with respect and, was too emotionally disturbed by the incident to talk about it for some time afterwards.” [*sic*]

“Either I was not physically injured, I could not have identified the perpetrators, or I did not feel I was under threat of harm. Also the incidents were usually mild enough that it did not seem worth the risk to expose myself to secondary victimization.”

“I was trying to forget that my partner hit me”

IV. GLOBAL ANALYSIS OF ANTI-TRANS VIOLENCE

Transgender violence is not just an epidemic confined to the United States. It is, in fact, a *pandemic* which spans the globe, cutting across continents, cultures, and languages. The following are a few examples of the

extent to which hate violence affects the lives of transgender-identified people around the world.

A report on the plight of transgender people in Argentina summarized by the Valente (2006) identified 420 transgender deaths in the Buenos Aires metropolitan region “in recent years.” Of these 420, “62 percent of the total died of AIDS, 17% were murdered, and the rest either committed suicide or died in car accidents, of drug overdoses, as a result of medical malpractice during plastic surgery or other procedures to change their physical appearance, or of cirrhosis of the liver, cancer, and other diseases.” The report also notes that 70% of these deaths occurred between the ages of 22 and 41, much younger than the country’s overall healthy life expectancy of 66.7 years (The World Health Organization, 2000). The tremendous scope of anti-transgender violence and discrimination in Argentina is corroborated by a similar study conducted by the International Gay and Lesbian Human Rights Commission (2005).

According to an article by the Indo-Asian News Service (2007), activists in Chennai, Tamil Nadu, India are also working to raise awareness about violence against the Aravani community, a category denoting people of a third sex in the Indian state. In this article, the non-governmental organization Tamil Nadu AIDS Initiative (TAI) describes the case of Aahilya and Nathan. The two Aravanis were beaten and abused by a shopkeeper when they attempted to buy “trinkets and asked for a 50 paisa [regional currency] concession.” TAI has also started a fund to assist Aravani victims of violence. So far, the organization has enrolled 10,000 Aravani victims.

Another example of the global scope of anti-transgender hate violence is the Nepalese “sexual cleansing” reported by the New York-based organization Human Rights Watch (HRW) (2006). In Nepal, transgender people are commonly referred to as *metis*. This word specifically refers to individuals who are biologically male but who present a more feminine gender expression. HRW reports that Nepalese police are involved in a systematic campaign to target and arrest *metis*. On March 14, 2006, 26 *metis* were arrested, detained, and denied legal counsel. In the end, they were charged with “public nuisance.” The report also details a 2004 incident in which police “rounded up” 39 *metis* and arrested them. Several of these individuals told reporters stories of the abuse they endured during their two-week detention. Many of the *metis* arrested during this campaign were also HIV prevention outreach workers. In light of this, the HRW report warns, “By jailing outreach workers campaigning against the spread of HIV/AIDS, the police threaten public health as well as civil liberties.”

Organized campaigns of violence against transgender people are not confined to Nepal; in fact, they are present even in countries commonly

thought of as socially progressive on issues of gender identity. In Liverpool, England, a 51-year-old transgender woman named Penelope Bassi was attacked on numerous occasions. In addition to these attacks, her home windows were smashed with bricks and her car was set on fire. “She was hit, laughed at and ridiculed—not only by her neighbours and their children, but also by police officers whose job it was to protect her” (Mansey, 2006, p. 5). Fortunately, this violence did not escalate to murder. Instead, the victim was able to forge a relationship with the police authority to assist in developing new guidelines for officers responding to anti-transgender hate crimes. Similar reports have been made by members of military organizations, worldwide, who have come out as trans-identified after or during their military service; many of these individuals are decorated war heroes (Witten, 2007c).

These case studies, as well as numerous others not reported here, illustrate the global pandemic of anti-transgender violence. This widely prevalent hate violence, as pointed out by Human Rights Watch, not only threatens the safety of transgender people, but also detrimentally affects the greater pursuit of universal civil liberties, public health, and democratic governance. Denny (2007) summarizes the challenge well:

Violence against transgendered persons is not an Atlanta problem, however, or even a national problem; it is an international one. Death squads in South American countries have executed transsexual persons and crossdressers in larger numbers, and police in other countries (especially in the Middle East) harass, torture, and murder transgendered persons with little fear of reprisal. (para. 14)

G. *Violence, Abuse, and the Healthcare System*

The institution of healthcare is not immune from participation in transgender abuse and violence. In fact, as the Gay and Lesbian Medical Association (2000) clearly points out, the federal government routinely invisibilizes the LGBT population and in doing so silently sanctions anti-LGBT behaviors (Belongia & Witten, 2006). This neglect is also evident in the recent failure to include transgender identities in the federal ENDA bill.

Many transgender-identified individuals have experienced various forms of both subtle and overt abuse and violence at the hands of healthcare workers. TLAR respondents indicated that 5.2% were placed in a psychiatric hospital (n=210), 15.7% were forced to see a counselor or therapist who tried to change them (n=210), and 2.4% (n=210) were forced to have surgery (intersex identification, Greenberg, 1998; ISNA, 2007). Consider the

following comment from “B” (an FTM-identified respondent in the TLAR study):

It is always important to realize that, within the trans-population, different sub-populations will have different healthcare related problems. For example, female-to-male transsexuals who have had mastectomy will always have the problem of secrecy . . . Either his chest scars are obvious, or his genitals give him away. Thus, accessing normatively sexed and gendered healthcare services is nearly impossible. Add to this the difficulty of FTMs who have taken only hormones but could not afford or do not want surgeries. Billy Tipton comes to mind as one who never accessed healthcare in his lifetime and probably died prematurely because of it. There are scads of FTMs who suffer in isolation because they refuse to subject themselves to medical scrutiny, possible mistreatment and ridicule. Also, there is Robert Eades who recently died of medical neglect, after seeking help from at least 20 doctors who refused to treat him for ovarian cancer.

Consider the following example from the TLAR (grammar and punctuation retained as written):

When I lived as a woman and was out as gay I've been spat on, hit raped, fired, evicted from house and refused treatment for healthcare.

Among the most famous healthcare abuse stories is that of Tyra Hunter, a Washington, D.C. hit-and-run victim, who was allowed to bleed to death by an EMT team when they discovered that she was a pre-operative male-to-female transsexual. The EMT team argued that they thought she was gay and had AIDS (Fernandez, 1998).

Belongia and Witten (2006) also report the invisibilization of transgender elders in eldercare facilities (see also Shankle, Maxwell, Katzman, & Landers, 2003; Watt, 2001; Witten, 2002, 2003; Witten, Eyler & Weigel, 2000). In a study of 29 regional eldercare facilities, 80% of the facilities contacted stated that participation in a one-hour lunchtime training in transgender eldercare was not relevant to their patient population and/or staff. Again, it is important to understand that violence and abuse against transgender persons and against elderly transgender persons is not just a U.S. problem. Rather, it is a worldwide problem (Witten & Whittle, 2004).

H. *Possible Roots of Anti-Transgender Violence and Hate*

Upon surveying the available literature, and considering the data from the qualitative and quantitative parts of multiple surveys, five possible causes of anti-transgender violence began to emerge.

The first emerging cause is the ignorance of the general public about transgender identities (Denny, 2007; Minter, 2007). Minter points out that many perpetrators of anti-transgender hate violence in the Los Angeles area used homophobic language (e.g., fag, dyke, faggot, cocksucker) during violent incidents. "It is possible that perpetrators knew that these victims were not exhibiting 'proper' gender normative behaviors, but had no words other than homosexual slurs to express themselves" (Witten and Eyler, 1997). Television shows such as *The Maury Povich Show* seek to perpetrate and to make use of this homophobic and "freak" perception by bringing on transgender-identified individuals that are not representative of the population and allowing audiences to heckle and make fun of them in front of international audiences. Transgendered victims appeared to have been targeted because of their gender differences, but the perpetrators were not necessarily able to label their actions anti-transgender as they themselves did not possess the vocabulary and knowledge to do so. This, of course, complicates the perceived mutual exclusivity of the categories "gender identity" and "sexual orientation" in many hate crimes statutes.

Linked to the first idea, the second emerging theme of causality is the problem of institutionalized bias and terminology conflation with respect to gender and sex (Basu, 2000; Doyal, 2001; Gannon, Luchetta, Rhodes, Pardee, & Segrist, 1992; Grant, 2001; Pryzgodka & Chrisler, 2000; Velkoff & Kinsella, 1998; Witten, 2003, 2005a, 2007), which can be demonstrated early on in healthcare students. Witten (2004) describes a recent study in which over 2000 anonymous response surveys were sent out to all of the students in the five colleges (Medicine, Nursing, Dentistry, Allied Health Professions, and Biomedical Sciences) of a major southwestern university medical center (IRB approved). Respondents were asked, among other questions, to rate their perception of their gender using the Eyler-Wright gender continuum measurement instrument (Eyler & Wright, 1997). Qualitative comments were also collected. Of the 271 individuals who responded, approximately 10% of them expressed vehement emotions concerning the concepts of gender and sexuality (Witten, 2007c). A 22-year-old, self-identified biological male medical student wrote:

Biological teaches us that men are XY and women are XX. There are no other possibilities, anything else is sick!

It is important to understand that this type of reaction is frequently the normative response experienced by members of the transgender-identified communities (Witten, 2004; Witten & Eyler, 1999).

Third, we have already established that transgender-identified persons frequently suffer a spectrum of abuse and violence (Witten, 2004). Further,

we have seen how these individuals are further marginalized by the health-care system as they age (Yagoda, 2005; Willging, Salvador & Kano, 2006ab; Witten, 2007b). However, these effects can be further exacerbated and confounded by additional life factors. An excellent overview of some of the relevant issues can be found in Cahill, South, and Spade (2000).

Fourth, hate crimes serve the function of preserving and reinforcing the gender binary system. Contemporary Western society reifies male-female gendered duality through popular culture, the media, employment practices, and fashion, as well as in many other ways. Hate violence punishes those individuals who transcend and/or subvert this binary because they are then “othered,” and thereby considered inferior to their normatively gendered counterparts. It is particularly important to note that violence against transgender people strengthens adherence to this false gender dichotomy in the general population as well as within the transgender community (Herek et al., 2002). This effect is further contextualized later in this article.

The fifth factor behind anti-transgender violence is proposed by Minter (2007). Minter concludes that transgender people are targeted not only for their violation of the social norm of gender dualism, but because they are stereotypically perceived as easy targets, much in same way elderly people may be singled out for muggings or home invasions. For hate crimes advocates, this conclusion may appear to add legal complexity when attempting to create hate crimes policy. However, Minter’s analysis is somewhat superficial, as the targeting of transgender people because of perceived weakness still represents a stereotyped powerlessness of the group as a minority category. Therefore, this hypothetical motivation for victimization continues to fit within the framework of a “hate crime”: an assertion of one person’s identity (i.e., *powerful* gender-normative person) over another (i.e., *weaker* transgender person) because the perpetrator views the victim’s identity as inferior.

I. *Consequences of Anti-Transgender Hate Violence*

A hate crime against a transgender (LGBT) person has both short-term and long-term psychological effects for the victim(s), as well as for society as a whole. The fear and trauma engendered by a hate crime can impede an individual’s ability to carry out normal day-to-day activities (Bradford, Ryan, & Rothblum, 1994). Moreover, it can have longer-term, later-life effects (Witten, 2004). Furthermore, hate crimes also have far-reaching implications for all LGBT as well as heterosexual people as a form of “terrorism” (Herek et al., 2002). Studies have shown that anti-gay and lesbian hate crimes reinforce adherence to normative gender behaviors (Witten &

Eyler, 1999) in people across the sexual orientation and gender identity spectra because of fear of being perceived as gay or lesbian (i.e., non-gender normative). According to Herek (1989), “men might not touch other men; women might not excel at tasks that require physical exertion.” Thus, hate violence is able to affect groups of people far beyond the individual(s) initially targeted by the perpetrators. Witten and Eyler (1999) further point out that hate crimes and hate violence are public health problems that need significant international attention.

In-depth implications of this multiple violence and abuse for health services practice are discussed in both Witten and Eyler (1999) and Witten (2004, 2007b). These violence and abuse results are supported by the work of Lombardi et al. (2001) and the Washington Transgender Needs Assessment Survey (Xavier & Simmons, 2001). Data is illustrated in Table [4]. We close with a discussion of transgender hate crimes within the construct of societal/institutional genocide.

Table 4. *Prevalence Percentages of Category of Violence or Crime Motive, as Perceived by the Victim, in Respondents to the WTNAS.*

Category of Motive for Crime as Applied to WTNAS Respondent Experience	Percentage of WTNAS Respondents
Homophobia	41.3%
Transphobia	33.9%
Don't know motive	27.5%
Economic gain	20.2%
Domestic violence	10.1%
Racism	8.3%
Other motive not listed	4.6%

V. TRANSGENDER HATE CRIMES AS GENOCIDE

As mentioned earlier, the treatment of the transgender population with respect to violence and abuse, both in the U.S. and globally, should be viewed through the lens of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (1951), specifically Article 2, Sections A-C. Article 2, in its entirety, explains:

Article 2

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

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- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group

While the United Nations resolution does not specifically include groups of people defined by either sexual orientation or gender identity, the hypothetical inclusion of these two terms would have profound implications for a conceptualization of anti-transgender violence as genocide under Article 2. It should be noted that any one of the actions specified in Article 2, alone or in combination with other items in the list, is considered sufficient for classifying a situation as “genocide.”

Upon inspection, the material existences of transgender people as described throughout this article bear tremendous resemblance to the acts outlined in the Genocide Convention. (More evidence of this can be found in the reference section at the end of this article.) For instance, it has been demonstrated that transgender people are being targeted for violence and murder based solely on their transgression of traditional gender norms. This is exemplified most profoundly in the aforementioned state-sponsored “sexual cleansing” of transgender metis taking place in Nepal (Human Rights Watch, 2006). Additionally, this article has sought to demonstrate that even in the U.S., acts of anti-transgender violence are not isolated incidents of random violence, but instead share the common impetus of the perpetrators’ desiring to eradicate a group of people who violate a widely held and popularly reinforced norm of binary gender with a connection to heteronormative sexuality. The net effect of these crimes is to evoke a sense of fear that percolates throughout the transgender community, encouraging transgender people to renounce open expressions of their gender identity lest they face similar violence. Additionally, it is posited that the common motive of eradication/annihilation is also transmitted socio-culturally to other potential perpetrators through media and film representations of anti-transgender violence, which potentiates the fear of victimization described by transgender people, including those quoted in this article. In summation, this “killing” and “serious bodily or mental harm” certainly satisfies the conditions set forth in Article 2, Sections A and B of the Genocide Convention.

As if this were not enough to classify anti-transgender violence as genocide, it has also been presented that transgender people are targeted for employment, housing, and healthcare discrimination. In addition, transgender people experience severe violence and abuse across social institutions such as the legal system, the penal system, and the military. This

constellation of systemic oppressions makes it nearly impossible for transgender people to attain basic life necessities while asserting a transgender gender identity. Article 2, Section C of the Genocide Convention allows for the possibility that acts of genocide may adopt a form other than physical violence and killing. Such “conditions of life” that might bring about transgender people’s “destruction in whole or in part” would certainly include the denial of vital services and resources based on their identification as transgender.

Complicating matters is that while thirteen U.S. states and the District of Columbia have employment nondiscrimination laws that include transgender people, there is currently no federal law prohibiting any type of anti-transgender discrimination (Transgender Law and Policy Institute, 2006). Consequently, transgender people are left with no explicit method of legal recourse following such abuses. This puts openly transgender people in the precarious position of either living openly as transgender or facing the very real possibility of being unemployed, homeless, and unable to access healthcare. These dire conditions have been shown to increase the risk of a transgender person’s experiencing violence (Lombardi et al., 2001) and have been demonstrated to increase the risk of higher mortality and morbidity among later-life trans-persons (Witten, 2007abc). In this way, a cycle of systemic discrimination and violence characterizes the lives of many transgender people.

Of course, one must acknowledge the complexities which arise out of the restriction of the Genocide Convention to “a national, ethnical, racial, or religious group” (1951, Article 2). Each of these group signifiers (with the possible exception of religion) contains an extrinsic component of construction and application. For example, in the late 20th-century Rwandan genocide, it was the Rwandan government, through the issuing of identification documents, that determined who was Hutu or Tutsi for the purposes of extermination. The tension between the two groups was, of course, predicated on a racial hierarchy established years earlier by colonial powers (Destexhe & Daley, 1995). Similarly, the genocide committed against Native Americans in colonial America as described by Howard Zinn (2005) depended upon the colonists’ ability to “other” and label the indigenous people as “Indians.” If the determination of group membership used in the commission of genocide were universally perceived, constructed, and applied externally, the current Genocide Convention would be sufficient. However, sexual and gender identity do not operate via this extrinsic labeling. Individuals are not labeled by dominant culture as transgender (or, for that matter, as gay, lesbian or bisexual) against their will. In fact, there exists in society a “compulsory heterosexuality” (Rich, 1994) and an endemic re/enforcement of “heteronormativity” (Warner, 1993) that seeks

to discourage even the mere acknowledgment of transgressive sexual and gender identities. Instead of being labeled “transgender” by the dominant culture, transgender people must actively assert their gender identity in order to *self-identify* as such. While it is clear that perpetrators of anti-transgender violence choose their victims based on a perceived violation of the binary gender norm (the very definition of “transgender”), it is not clear that these same perpetrators fully understand their victims to be “transgender,” as such. This difference from the mechanics of traditionally-conceived genocide indicates the need for a reexamination of how we define genocide.

Given the breadth of discrimination, abuse, violence, and hate crimes, and the clear-cut absence of policy designed to regulate it, it is within reason to conclude that absence of policy is, in fact, policy. As one of the TLAR survey respondents stated:

Condoned social institutions that foster hate and intolerance should be looked at. They cause as much psychological damage as anything. Prevailing attitudes by society need to be changed so that all people can fit in without fear of violence, loss of job/family etc. There is room enough for everybody to live peaceable lives as they see fit.

VI. CLOSING THOUGHTS

Based on a review of the literature available regarding anti-transgender hate violence, several conclusions can be drawn.

First of all, transgender-identified persons undergo lifelong exposure to multiple forms of abuse and violence that are frequently repeated across the life course and are relatively unreported to authorities for fear of reprisal. Furthermore, victims feel that they will be abused, humiliated or not believed by the very authorities who are supposed to protect them.

Secondly, socioeconomic status was found to be a predictor of violence, as low-income individuals have reduced access to healthcare and other support services (Lombardi et al., 2001). In addition, these individuals are more likely to engage in “survival crimes,” such as drug dealing, sex work, and panhandling, which place them at an increased risk for victimization by individuals both affiliated and unaffiliated with the law enforcement system (Lombardi et al., 2001; Xavier & Simmons, 2000).

Anti-transgender hate violence also has profound consequences, not only for transgender people, but for society as a whole. This violence reinforces the male-female gender binary and engenders fear in those who even consider venturing beyond its confines. This applies to transgender people

who wish to cosmetically, surgically, or hormonally alter their gender presentation, but also, for example, to non-transgender men who wish to enter traditionally female occupations or non-transgender women who enjoy wearing their hair short (Herek, 1989; Herek et al., 2000).

Hate violence also decreases the likelihood that transgender people will obtain health and support services after violent incidents, as they fear revictimization by hospital staff or law enforcement (Witten, 2008). A negative cycle is established in which victims of violence endure their pain in silence, putting them at risk for depression and other mental illnesses as well as making them even more likely to experience a second victimization during their lifetime.

The degree of severity of the violence meets the definition of hate crime and, as such, warrants classification of much of trans-violence as hate-crime related. The large number of such crimes warrants the inclusion of trans-violence as part of the hate crimes statutes throughout the United States and the rest of the world. Moreover, accurate hate crime statistics should be collected for trans-related crimes.

These findings point to the need for further research into the causes and consequences of anti-transgender hate violence, as well as a need for a re-examination of how support services can be made more accessible to transgender hate violence victims. Furthermore, socioeconomic status, race/ethnicity, differing ability, and other further marginalizing factors need to be given greater attention in studies involving transgender people in order to capture more representative images of the gender community.

In addition, the persistent and ongoing lack of political, legal, and social attention to the hate crime violence against the global transgender-identified populations appears to meet the definition of genocide under the Convention on Prevention and Punishment of the Crime of Genocide (Article II, items a & b), thereby warranting increased global attention to this issue through the world court, WHO, the United Nations, and other international agencies dealing with "gender violence."

Based on this evidence, there is also a need for a radical reconsideration of how the international community conceptualizes a group's eligibility as a potential target of genocide. The current definition of genocide is predicated on the heterosexist and heteronormative belief that subgroups of humans are always able to be extrinsically labeled before being systematically targeted for extermination. Currently, transgender people, who self-identify as such, are targeted in ways that clearly qualify as genocide under the criteria set forth in Article 2 of the U.N. Genocide Convention. Unfortunately, their victimization cannot be regarded as such under current international law, both because "gender identity" is not included in the Genocide Convention and because the perpetrators of such acts of genocide do not

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have a single label by which they collectively identify their victims due to the presence of a dominant culture which normatively limits gender to only male and female.

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To find out more about the TranScience Research Institute, the research being sponsored and conducted, and/or to participate in any of its projects, you may visit the TSRI website at <http://www.transcience.org/> or you may reach Dr. Tarynn M. Witten at either of the following email addresses: transcience@earthlink.net or transcience@transcience.org.

ACKNOWLEDGMENTS

First and foremost, the author would like to thank all of the FTM survey respondents as well as the global TLARS survey respondents. Without their honesty and willingness to participate in this research effort, we would be unable to provide any information on this subject of importance. TMW would also like to acknowledge her colleagues, A. Evan Eyler, Deirdre Condit, and David Bromley, for their ongoing dialogue and support of this research.

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