Unpacking LGBT+ hate crimes discourse in Italy: between symbolic recognition and claims for sexual citizenship

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Abstract
Purpose – The purpose of this article is to provide a critical account of the hate crime (HC) paradigm by exploring its historical legal definition and the limitations in addressing the multiple and structural discriminations faced by minority groups. Specifically, the article focuses on the case of Italy, where in recent years a fierce debate over a proposed law on HC against LGBT+ and disabled people ended in its rejection due to neoconservative and Catholic opposition.

Design/methodology/approach – Drawing on critical socio-criminological literature on HC, the paper analyses the Italian debates and socio-legal context over the past two decades regarding discrimination against LGBT+ groups and its (lack of) criminalization. It also provides a secondary analysis of recent data on violence and discrimination against LGBT+ people, collected by the Fundamental Rights Agency (FRA).

Findings – The analysis of the debate and the data collected shows that the criminal definition of HC is insufficient to capture the wider range of social and cultural violence and discrimination against LGBT+ people. Indeed, data analysis shows the effect of the low level of recognition of rights on the propensity of people to denounce and of social practitioners to recognize, discrimination and violence against LGBT+ people. It is therefore argued that the discussion on HC should move beyond the criminalization of individual violence to be entrenched in a broader reflection over the lack of recognition of sexual citizenship rights which perpetuates the vulnerability of LGBT+ people.

Originality/value – This paper contributes to the international socio-criminological debate on HC. It argues for a comprehensive framework that recognizes the structural nature of discrimination and violence against vulnerable groups by framing discrimination and violence against LGBT+ people as a citizenship right rather than a criminal justice issue.

Keywords Discrimination, Italy, Under-reporting, Hate crimes against LGBT+ people, Sexual citizenship, Violence against queer people

Paper type Research paper

Introduction
In the Italian legal system, there is no legal provision for hate crimes (HC) based on sex, gender, sexual orientation, gender identity or disability. The issue of HC is included among the crimes against equality in Title XII of the Penal Code on crimes against the person. The title makes provision for:

- the punishment of conduct of propaganda and incitement to commit racial, ethnic and religious discrimination; and
- the so-called “racial discrimination aggravating circumstance”, increasing the punishment for crimes committed “for the purpose of discrimination or ethnic, national, racial or religious hatred, or for the purpose of facilitating the activity of organizations, associations, movements or groups that have among their aims the same purposes [e.g., discrimination or ethnic, national, racial or religious hatred]” (Goisis, 2018).
Violence and discrimination motivated by sexual orientation, gender identity and sexual characteristics are thus excluded from this crime, as are those motivated by disability. Recently, the so-called “Zan” bill sought to extend the offences to include these motivations, but the tortuous path to approval ended in its rejection in 2021, mainly related to the Italian public’s resistance to granting full legitimacy to the sexual citizenship of LGBT+ people (Bellè et al., 2016; Prearo, 2020).

In fact, the Italian debate on this issue has been overwhelmed by the opposition of right-wing neoconservative and populist forces, alongside the influence exerted by the Vatican, which in recent years, through the so-called “war on gender ideologies”, launched a reactionary backlash against the achievements made and claims for “sexual citizenship” put forward by the feminist and LGBT+ movements in recent decades.

However, the debate on HC and thus on the criminalization of conduct motivated by hatred toward minorities – whether ethnic, national, religious, gender or sexual – is characterized, in Italy as in other countries, by a punitivist and security approach which conceals the social, cultural and economic problems underlying discrimination, to instead represent it as a mere individual issue (Pitch, 2022). In fact, public conversations about these issues arise in the context of social alarms and moral panic, which erupt in situations of social and economic crises, provoking the resurgence of violence and placing the subjects involved in social conflicts in the dichotomy of “victims vs executioners”. This process oversimplifies the complexity of the power relations that run through the fight for the recognition of citizenship rights, individualizing what is indeed a social problem and avoiding the accountability of state institutions for its resolution. Requests for the mere criminalization of hatred-motivated conduct are situated in this frame.

In this article, after a brief review of the international socio-criminological debate on HC, we will describe the Italian case in terms of the country’s socio-legal and political context and the debate over the past two decades concerning discrimination against LGBT+ groups and the criminalization of violence against them. After that, through the analysis of very recent data collected by the Fundamental Rights Agency (FRA), we will reflect on the need to move beyond a mere criminal framing of violence against LGBT+ people to call for a framework that accounts for the structural nature of the discrimination and violence against them.

The definition of hate crimes between criminalization, victimization and struggles for citizenship

The conceptualization of HC in the socio-legal literature shows several ambiguities and differences between institutional, legal, academic and operational definitions (Chakraborti and Garland, 2015; Goisis, 2018). According to the Organization for Security and Co-operation in Europe (OSCE) definition, HCs are characterized by two elements:

1. conduct that constitutes a crime under state criminal law; and
2. conduct inspired by a motive of prejudice against a protected category.

The central feature of the offence is not hate, considered in the socio-legal literature as an ambiguous term owing to its relation to the subjective and emotional sphere, but prejudice against specific social groups (Lawrence, 1999; Hall, 2013; Chakraborti and Garland, 2015). Thus, HC are defined more properly as bias crimes, as they are crimes related to prejudice towards specific categories (Chakraborti and Garland, 2015; Goisis, 2018). The OSCE also defines the elements that distinguish HCs from common crimes:

- motivation; and
- the impact they have on the targets of the violence.
Regarding the first factor, the HC perpetrator chooses the victim based on his or her affiliation (Gerstenfeld, 2017), that is, based not on who he or she is, but on what he or she is or represents (Lawrence, 1999); the victim is therefore interchangeable with other members of the same community (Goisis, 2018): in this sense, the goal of the crime is intimidation towards the entire community of which he or she is a part.

For these reasons, according to OSCE, hate/bias crimes are “message crimes” (Chakraborti and Garland, 2015), that is, they carry a symbolic message towards a wider group of people, from the community to the whole society. Secondly, and consequently, HCs are distinguished from common crimes by the more serious impact they have on the community: they are crimes characterized by serious violence that threaten the safety of entire social groups and cause psychological consequences related to humiliation, isolation and the increased vulnerability of the social group affected by the attacks.

The definition of hate and/or prejudice, however, is not unambiguous in the legislations that have adopted criminal HC laws. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) distinguishes two models of HC laws: the hostility model and the discrimination model. Belonging to the former are regulations, such as the ones envisaged in the UK, which stipulate the need for “evidence that the offender acted out of some kind of hostility toward the victim” (ODIHR, 2009). In the second case, however, what is relevant is not the manifestation of hatred or hostility per se but acts where the victim is “targeted deliberately because of a particular ‘protected characteristic’” (ODIHR, 2009, p. 47), which may also stem from cultural stereotypes (e.g. the belief that a particular social group’s greater social vulnerability will ensure impunity for the perpetrators).

This definition, according to the ODIHR, is not only preferable because it does not consider subjective factors such as hate speech, which are difficult to operationalize, but also because it focuses attention on the victims’ belonging to marginalized groups and the impact that such violence may have on their identity: “From the victim’s perspective, what matters is that he/she has been chosen because of an immutable or fundamental aspect of his/her identity” (ODIHR, 2009, p. 49).

However, while the object of HCs does not concern hatred but the victims’ belonging to certain vulnerable social groups (Gerstenfeld, 2017), the very definition of “protected category” is still widely debated in the literature (Browne et al., 2011). As Chakraborti and Garland (2015) noted, social categories subject to stigmatization and violent aggression are historically determined and have to do with a power imbalance between minorities and dominant groups. From this perspective, several authors have emphasized the dynamic rather than static or essentialist nature of the definition of the categories victimized by HCs. Indeed, HC is the outcome of historical processes resulting from the emergence of conflicts on the recognition of marginalized social groups’ civil, economic and social rights (Jenness, 2001; Browne et al., 2011).

The struggle for citizenship rights and the claim for recognition of hate crimes

According to Perry (2001), HCs are acts of intimidation by dominant groups towards groups that are already socially stigmatized, reproducing a mechanism of power and oppression aimed at “reaffirm[ing] the precarious hierarchies that characterize a given social order” (Perry, 2001, p. 10) in the face of an alleged threat to the hegemony of the dominant group. What characterizes HCs is thus the defence and maintenance of privilege (Jenness, 2001) in the context of “a political culture which allocates rights, privileges and prestige according to biological or social characteristics” (Sheffield, 1995, p. 438). In other words, HCs are the epiphenomenon of forms of moral panic that arise at times of social change and crisis, in the face of claims to citizenship rights by groups that have hitherto been excluded, considered folk devils or deviants, and often, in the case of LGBT+ people, dehumanized (Herdt, 2009; Browne et al., 2011).
LGBT+ group struggles to claim citizenship rights in western countries are situated in the history of feminist, lesbian, gay, bisexual and trans movements that since the 1960s have challenged the gender-blindness of the dominant theories on western citizenship. Indeed, while the sociological and political notion of citizenship has been analysed, in relation to social class (Marshall, 1963), as a set of civil, political and economic rights linked to a subject’s membership of a national community, feminists and lesbians on the one hand, and LGBT+ movements on the other, have criticized its “false universalism” by revealing its gendered and sexualized nature (Richardson, 2005; Hearn et al., 2011; Lister, 2012). For the former groups, the universalism of citizenship mystifies the inherently masculine nature of its (white, Christian, owner) subject, as the feminine is relegated to the private sphere of reproduction (the “sexual contract” denounced by Pateman, 1988). On the other hand, LGBT+ movements have revealed the hegemonic (Monro and Richardson, 2014) and/or compulsory (Rich, 1980) heterosexuality underlying citizenship, demonstrating how citizens are “normatively constructed as (hetero)sexual subjects” (Richardson, 2005, p. 65) and, therefore, how heteronormativity serves as a line of inclusion/exclusion in western national communities, along with racialization and class (Brandzel, 2005).

LGBT+ claims for citizenship rights have developed over the past four decades, oscillating between liberationist (through a radical critique of the dominant heterosexual structure) and inclusionist thrusts (claims to recognize the same rights as heterosexual people in the frame of a human rights discourse, without questioning their heteronormative matrix) (Monro and Richardson, 2014; Prearo, 2015; Bellè et al., 2018). It is within the frame of the latter that the concept of sexual citizenship has developed, understood as the set of sexual rights claims inherent in the state’s recognition of freedom of expression, bodily autonomy and social inclusion, affective and sexual relationships and freedom from violence (Monro and Richardson, 2014; Richardson, 2017). We can therefore argue that the claim for (sexual) citizenship by LGBT+ movements is a form of collective “coming out” through the uncovering and denunciation of the structural violence by the subjects hitherto rendered victim and invisible by it.

It is no coincidence that the history of the claim for the social and legal recognition of HC, which began in the USA around the late 1970s, is inextricably linked on the one hand to the emergence of social movements representing minority groups such as Blacks, women, lesbians, gays and disabled people, respectively (Jenness, 2001), and on the other hand to the upsurge in visible incidents of violence aimed at specific marginalized groups. Moreover, a further “push factor” in the emergence of HC as a social and political issue has been the publication of victimization survey reports, which are one of the main outputs of HC policies where these have been implemented (Moran, 2001). The emergence of citizenship claims and the (consequent) resurgence of violence towards those who make them have historically accompanied the call for the criminal recognition of HC, understood as a process to politicize the struggle against violence directed at minorities because of their minority status (Jenness, 2001).

However, during the 1980s and with the rise of the neoliberal paradigm, this process was marked, in the USA as well as in other countries such as Italy, by the emergence of the more conservative “crime victims movements” (Jenness, 2001), whose claim as victims of (violent) crimes was to obtain special assistance from the state and to expand the interventions of criminal justice against perpetrators of violence (Jenness, 2001). This movement was characterized by a punitivist approach, whose lexicon shifted from that of “oppression”, typically used by the abovementioned marginalized groups, to one of “victimhood”, typically used in security discourses (Garland, 2001; Pitch, 2022). These movements called for more social control and an increased criminal intervention by the state, shifting the focus from structural discrimination to “personal victimization” (Jenness, 2001, p. 285) to be addressed by emergency policies (Garland, 2001; Stanko, 2001; Browne et al., 2011). In this semantic and political shift, the claim is no longer centred
around rights, but around the harm suffered, described as a specific event, moving the focus from a collective, structural dimension to an individual one (Jenness, 2001; Pitch, 2022).

But this individualizing approach, framing HCs as individual incidents, has been criticized by feminist and queer movements and scholars because it detaches the victims from the social and political context in which HCs occur and are produced, individualizes the subjects who suffer and act out the violence and isolates the events in specific moments without accounting for the “continuum” of violence to which minorities are exposed (Bowling, 1993) (the reference to the “continuum” of violence clearly recalls the feminist literature on gender-based violence) (Kelly, 1987; Pitch, 1998). Instead, these aspects are recorded by victimization surveys, which, by documenting the ordinariness of the violence experienced, “map the gap between the everyday lived experience of violence and its exceptional representation in those state institutions that seek to control violence and protect subjects/citizens” (Moran, 2001, p. 334). This means that, in contrast to official statistics based on reports to the police, victimization surveys allow for a broader understanding of the phenomenon of violence against marginalized groups as they record the continuity and different forms of violence experienced by the people interviewed, going beyond the idea that such violence is extraordinary.

Moreover, feminist and queer studies also maintain that victimization surveys fill a second, structural gap in criminal statistics, resulting from low confidence in police efficacy, which derives from LGBT+ people’s direct experience of institutional homophobic violence and discrimination (Moran, 2001). These factors support the reasons for the very high degree of underreporting of HCs, especially by LGBT+ victims, even in the presence of a national legislative prohibition on HCs (Perry, 2001; Moran, 2002). The LGBT+ category tends to be less likely than other social groups to turn to law enforcement because of their expectation and prior experiences of heterosexual bias on the part of police officers, and the risk of suffering secondary victimization. Distrust extends beyond the police uniform to involve service workers in general, who are perceived as not recognizing the specific needs of LGBT+ people or being unable to relate to them. It is precisely these latter considerations that call into question the ability of the HC concept to capture the true extent of the structural and systemic violence experienced by LGBT+ people (Browne et al., 2011).

Moreover, the continuum of the abuse leads many LGBT+ people to normalize it, and thus they have difficulty in recognizing and naming it as such, which results in many LGBT+ individuals enacting a kind of self-protection and survival strategy (Browne et al., 2011). On this last point, it is interesting to note that research conducted by Browne et al. (2011) showed that difficulties in reporting and preference for self-protection techniques differ along intersectional lines of privilege such as class and race, but also along the different gender identities and sexual orientations that distinguish LGBT+ people. In fact, trans and racialized people have the most difficulty in reporting and relying on institutions for protection from violence.

The debate on sexual citizenship in Italy

Over the past two decades, Italy has been hit by several waves of sexual panic within the framework of the so-called “war on gender”, which started in the early 2000s by western neoconservative and populist forces against the rights of LGBT+ people. The war on gender is the heteropatriarchal backlash against sexual citizenship achievements, ongoing since the end of the 20th century and launched by the alliance of reactionary and neoliberal forces throughout the West within the processes of de-democratization following economic crises and the consequent dismantling of welfare state systems described by Brown (2006). The ideological pillars of the anti-gender repertoire consist of the moral imperative to heterosexual reproduction and attacking the right to abortion (Paternotte and Kuhar, 2018; Bielska-Brodziak et al., 2020), through the imposition of the traditional family as the main
and exclusive place of recognition of affective and reproductive relationships, social discipline and control, and distribution of welfare resources (Brandzel, 2005; Gago, 2019). Therefore, one of the explicit neoconservative goals is to expropriate LGBT+ people from reproductive rights and sexual citizenship (Herdt, 2009; Bellè et al., 2016).

In particular, in Italy the emergence of anti-gender mobilization initially stemmed from the political debate that developed around three bill proposals concerning the recognition of citizenship rights for LGBT+ people: the Scalfarotto bill (n. S. 1052/2013) which proposed introducing the crime of homophobia into the penal code; the Cirinnà bill (S.2081/2013), proposing the recognition of same-sex marriages; and the Fedeli bill (S.1680/2013), proposing the inclusion of gender-oriented educational pathways in schools. None of the three attempts, except for the (amended and weakened) Cirinnà law (bill S.2081/2013) was successful: after a tense political debate, the Scalfarotto bill (n. S.1052/2013) was withdrawn as a bargaining chip in order to reach a compromise on the approval of the civil union (but not marriage) of same-sex couples. Despite institutional pressures from the European Union, Italy remains one of the few western countries that have not adopted LGBT+ anti-discrimination policies.

In response, there were extensive calls from LGBT+ movements for political, symbolic and material recognition of the group’s rights. In many European countries, as various awareness campaigns have shown, these rights are already a reality, and Italy is one of the last western countries lacking legislation in these fields (Ozzano and Giorgi, 2016). After this cycle of political conflict on sexual citizenship, in 2019 another bill was proposed by MP Alessandro Zan (of the Democrat Party) with the aim of extending the criminalization of discrimination set out by the Mancino law to violence and hate speech based on sex, gender, sexual orientation, gender identity and disability. Moreover, the bill contained the institution of a national day against homophobia, lesbophobia, biphobia and transphobia, and the involvement of public education and institutions to promote inclusive citizenship by fighting discrimination based on sexual orientation and gender identity. Finally, it provided for anti-discrimination centres for victims of discrimination and an observatory on homotransphobic violence (Feo, 2022). Again, after two years of heated debate the Senate rejected the bill. The rejection was greeted by a violent and intimidating applause by the right-wing members of parliament.

However, even though the bill gained the endorsement of the whole of the left wing and progressive civil society, social transfeminist and queer movements took an ambivalent and critical stance towards the bill, well summed up by the #MoltoPiudiZan (“Much More Than Zan”) campaign. This is not the place to delve into the different political positions and practices of queer movements with respect to LGBT+ associationism (for an insight into the debate, see Zappino, 2015; Bellè et al., 2018). However, with regard to the recognition of civil rights, the main critique raised by transfeminist and queer movements addressed the punitive and penal drift of the bill, in the face of the structural social and political exclusion of LGBT+ people. We quote three excerpts from political documents issued during the campaign by the most significant feminist and queer networks:

A law punishing homo
cisbiphobicbehaviours will not eradicate the roots of those behaviours from the cisgendered consciousness of our country. A fine, sentence or the threat of either will not disarm the violent hand of the oppressor, who acts in a context of social over and above legal legitimacy (La Falla, 2021).

A law is not enough for us: we are not asking for protection from the violence of the homo
cathofascistright at the price of further disciplining and exploitation, but we want to build spaces of autonomy and transfeministqueerpride, in which to be truly protagonists of radical change (Smaschieramenti, 2021).

We demand much more than Zan because a repressive measure is not enough for us: we desire to have the right to access health care, an income of self-determination, and citizenship and residence permits untethered from family and work (BSidePride-19, 2021).
Transfeminist and queer movements wanted the radical transformation of a society which they claimed was built on heterocisnormative assumptions and therefore needed to be transformed from its foundations. However, according to these groups, the defeat of the Zan bill had taken on a symbolic significance, demonstrating that, for the state, LGBT+ lives do not matter:

We talked about how insufficient the Zan bill was, but we still participated in Pride and demonstrations demanding its passage, convinced that it was the first, minimal step towards a broader recognition of our rights. Rights that we are all born with – it is always worth remembering – and that a hetero-patriarchal, sexist and ableist society takes away from us because of our sexual orientation, gender identity or disability [2].

As this last excerpt points out, the lack of criminalization of HCs against LGBT+ people cannot erase the evidence of the everyday violence suffered in Italy by non-heterocis people.

Official data on hate crimes in Italy

For Italy, the data on HC published by OSCE are collected and transmitted by the Ministry of the Interior. As with all crimes in general, police reports on HCs are collected, classified and archived in a database organized according to the various provisions of the Criminal Code. Therefore, this database only records as HCs those crimes listed in the Mancino Law, namely, those motivated by hatred against race, ethnicity, nationality, language, Jews, Roma and Sinti, Muslims and members of other religions. Those committed for other reasons are classified as ordinary crimes.

To compensate for the absence of cases of HCs motivated by the victims’ sexual orientation, gender identity and sexual characteristics, the National Office against Racial Discrimination of the Presidency of the Council of Ministers has set up a contact centre to collect these reports as well, thus making it possible to integrate the information published by OSCE on HC committed in Italy.

According to the official data published by OSCE, 5,125 HCs were recorded in Italy in the five-year period from 2016 to 2020. Table 1 shows the increase in HC over the years, distinguishing them by motivation: racist HC peaked in 2017, crimes motivated by the victims’ disability have varied over the years, while HC against LGBT+ people were more prominent in 2018 and 2019.

<table>
<thead>
<tr>
<th>Year</th>
<th>Racist hate crime</th>
<th>Disability hate crime</th>
<th>Anti-LGBT+ hate crime</th>
<th>Total</th>
<th>HC per 100,000 inhabitants</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>494</td>
<td>204</td>
<td>38</td>
<td>736</td>
<td>1.2</td>
</tr>
<tr>
<td></td>
<td>67.1</td>
<td>27.7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2017</td>
<td>828</td>
<td>157</td>
<td>63</td>
<td>1048</td>
<td>1.7</td>
</tr>
<tr>
<td></td>
<td>79.0</td>
<td>15.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2018</td>
<td>801</td>
<td>210</td>
<td>100</td>
<td>1111</td>
<td>1.9</td>
</tr>
<tr>
<td></td>
<td>72.1</td>
<td>18.9</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2019</td>
<td>805</td>
<td>207</td>
<td>107</td>
<td>1119</td>
<td>1.9</td>
</tr>
<tr>
<td></td>
<td>71.9</td>
<td>18.5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2020</td>
<td>848</td>
<td>192</td>
<td>71</td>
<td>1111</td>
<td>1.9</td>
</tr>
<tr>
<td></td>
<td>76.3</td>
<td>17.3</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>3776</td>
<td>970</td>
<td>379</td>
<td>5125</td>
<td>1.9</td>
</tr>
<tr>
<td></td>
<td>73.7</td>
<td>18.9</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The latter, in particular, account for 7.4% of the total for the five years considered, a percentage that varies significantly from year to year, reaching almost 10% in 2019 and then decreasing in 2020.

Differentiating between different types of violence, Table 2 shows that the racist and xenophobic HC committed were mainly incitements to violence; disability HC mainly consisted of physical violence and assaults, but also thefts/robbery and damage to property; finally, the data show that LGBT+ people were more likely to be victims of physical assaults and threats/threatening behaviour, crimes that tend to occur in public spaces, perpetrated by unknown people. With this in mind, it is not difficult to understand the decrease in HC against the latter group recorded in 2020: as mobility was greatly reduced because of the COVID-19 pandemic, the possibility of encountering hostile people (at least outside the family nucleus) decreased in turn.

As the literature reviewed suggests, by their very nature official data only capture the tip of the iceberg, namely, the violence that is reported and recorded, and do not allow us to draw conclusions about the type of “incidents” that LGBT+ people are most likely to experience. However, they are a wake-up call to reflect on the mechanisms for reporting and recording violence experienced by LGBT+ people.

In particular, the fact that racist HCs are clearly codified seems to favour a greater propensity to report and register even potentially harmful behaviours that do not actually lead to physical violence. On the contrary, for people with disabilities, and even more so for LGBT+ people, the most commonly reported type of “incident” is physical violence, and this leads us to believe that the absence of a law on HC against these groups of people leads to an overrepresentation of only the most dramatic episodes, represented by physical violence in public spaces and an underrepresentation of the other different acts of violence against them. This is precisely why data collected through surveys are needed to shed light on the real experiences of violence experienced by LGBT+ people.

Victimization data: the Fundamental Rights Agency survey on LGBT+ discrimination

As mentioned above, criminalizing violence against vulnerable groups does not solve the problem of underreporting of discrimination and violence against LGBT+ people. In fact, the phenomenon of underreporting remains stable (Chirico et al., 2020) because the underlying reasons have not changed: mistrust and fear of going to the police, fear of being

<table>
<thead>
<tr>
<th>Type of crime</th>
<th>Racist hate crime</th>
<th>Disability hate crime</th>
<th>Anti-LGBT+ hate crime</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incitement to violence</td>
<td>30.1</td>
<td>2.3</td>
<td>16.6</td>
<td>23.8</td>
</tr>
<tr>
<td>Physical assault</td>
<td>11.3</td>
<td>33.2</td>
<td>41.7</td>
<td>17.7</td>
</tr>
<tr>
<td>Desecration of graves</td>
<td>19.7</td>
<td>0.0</td>
<td>0.0</td>
<td>14.5</td>
</tr>
<tr>
<td>Threats/threatening behaviour</td>
<td>11.1</td>
<td>10.2</td>
<td>22.4</td>
<td>11.8</td>
</tr>
<tr>
<td>Theft/robbery</td>
<td>3.3</td>
<td>21.5</td>
<td>8.7</td>
<td>7.1</td>
</tr>
<tr>
<td>Damage to property</td>
<td>4.4</td>
<td>12.4</td>
<td>2.4</td>
<td>5.8</td>
</tr>
<tr>
<td>Disturbance of the peace</td>
<td>6.0</td>
<td>1.9</td>
<td>1.1</td>
<td>4.8</td>
</tr>
<tr>
<td>Attacks against places of worship</td>
<td>4.8</td>
<td>0.0</td>
<td>0.0</td>
<td>3.6</td>
</tr>
<tr>
<td>Vandalism</td>
<td>1.0</td>
<td>0.8</td>
<td>5.8</td>
<td>1.3</td>
</tr>
<tr>
<td>Sexual assault</td>
<td>0.1</td>
<td>0.9</td>
<td>0.0</td>
<td>0.2</td>
</tr>
<tr>
<td>Arson</td>
<td>0.1</td>
<td>0.1</td>
<td>0.0</td>
<td>0.1</td>
</tr>
<tr>
<td>Homicide</td>
<td>0.0</td>
<td>0.2</td>
<td>0.3</td>
<td>0.1</td>
</tr>
<tr>
<td>Unspecified</td>
<td>8.0</td>
<td>16.5</td>
<td>1.1</td>
<td>9.1</td>
</tr>
<tr>
<td>Total</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

Source: IRPPS-CNR elaboration on OSCE data
exposed to further violence, marginalization and stigmatization. As Moran (2001) argues, victimization surveys offer a broader and more relevant view of the reality than crime statistics because the data collected are derived directly from the respondents’ lived experience, without having to use a criminal lexicon that cannot consider the complexity and nuance of each person’s experience.

While collecting this type of data cannot avoid estimation problems, it does address some of the limitations of HC statistics by broadening their focus, thereby shedding light on the multiple forms of violence experienced by LGBT+ people and the reasons for the underreporting observed in police records. In this section, we will analyse data collected in the EU LGBTI II survey by the FRA (FRA, 2020) that explicitly refer to the lived experiences of LGBT+ people. The EU LGBTI II survey (FRA, 2020) collected information on LGBT+ people’s experiences of discrimination, violence and harassment in the countries of the European Union plus North Macedonia, Serbia and the UK (EU28). A total of 139,799 people aged 15 and over who identified as lesbian, gay, bisexual, transgender or intersex took part in the survey. A total of 9,781 people from Italy responded, representing 7% of the total.

Data from the FRA (2020) show that 3% of LGBT+ people experienced a physical assault in 2019. A fact that unites Italy with other European countries is the predominance of these events in the public sphere: in most cases, the perpetrators of violence are unknown persons who lash out at the victims because of their hatred of attitudes and behaviours that are considered contrary to the conventional norms. Among the characteristics of the perpetrators of violence, gender stands out the most: in fact, men are much more likely than women to physically or sexually assault LGBT+ people. More so given that this violence is most often perpetrated by strangers and in public places, it takes on the significance of a punitive tool against nonconforming people, ultimately aimed at reaffirming the cisnormative gender order.

These experiences are inscribed in the habitus of LGBT+ people: to borrow a phrase from Eribon (2015), it can be said that the shock of being insulted is a common experience that ends up feeding the fear of being victimized. Hence, they must never let their guard down, hide their identity, constantly monitor their own and others’ behaviour to avoid being insulted or attacked, avoid gestures that should be normal but could be “dangerous”, such as holding hands with their partner(s) in public places or walking through areas where they could become an easy target.

The shock of insult is inscribed in the bodies of LGBT+ people and reappears in the form of fear, self-doubt, shame or embarrassment, all “bodily attitudes produced by the hostility of the outside world” (Eribon, 2015, p. 21). For example, taking a partner’s hand in a public place, a natural gesture for any lover, for them implies a risk that is difficult to calculate, ranging from insult to physical assault. In this respect, the FRA survey does not show any significant differences between the Italian sample and the European sample, around 6 out of 10 of whom say they avoid holding their partner’s hand for fear of being attacked, threatened, or harassed, just as 3 out of 10 say they avoid going to certain places in their city for the same reason. Public places such as streets, neighbourhoods, parks, public transport or even restaurants and bars are where there is the greatest risk of encountering hostile people, so here LGBT+ people tend to hide their sexual orientation or gender identity (FRA, 2020).

In Italy, the fear of being attacked or harassed leads LGBT+ people to avoid revealing their identity mainly in places frequented by acquaintances or relatives, such as the workplace (37% in Italy vs 34% in the EU28), in places frequented by family members (33% in Italy vs 29% in the EU28) and at home (18% in Italy vs 13% in the EU28), while the percentages who reveal their identity in public places are much lower than in Europe: 10% less for bars/restaurants, 15% for public transport and 16% for streets and parks.

This also explains the considerable reluctance to ask for assistance: the LGBT+ people interviewed in the FRA (2020) survey show a clear tendency not to report, either because of
a lack of confidence in the police response or because of a fear of secondary victimization by the police if they reveal their sexual orientation or gender identity.

But violence is not just physical aggression; it can also be microaggressions that occur in the workplace, such as interactions sending derogatory messages, subtle insults often automatically or unconsciously directed at people (De Rosa, 2022) or more widespread discrimination in different areas of life (such as employment, health care, social services, housing, education and everyday life). Indeed, a significant proportion of the FRA survey respondents report having experienced discrimination in different areas of life in the last 12 months (40% Italy vs 42% EU28). The places where experiences of discrimination are most concentrated are in public leisure venues (bars, restaurants and nightclubs) and in the working environment (FRA, 2020).

Furthermore, the FRA survey shows that in most cases LGBT+ people do not report the discrimination they experience (81% in Italy vs 89% in the EU28), mainly because they hold out little hope that anything can really change. Taken together, the reasons given point to a significant mistrust of an environment that is perceived as indifferent, if not explicitly hostile to the suffering caused. It is a silence that risks feeding a vicious circle, because the reluctance to seek help or report the incident can feed a sense of impunity among homophobic people, authorizing them to reproduce discriminatory behaviour.

While 41% of people in the EU28 say they do not report discrimination because “nothing would happen or change”, this figure drops to 30% in Italy. More worryingly, the second most common reason for underreporting discrimination in Italy concerns the 28% of respondents who say that they did not report because they did not want to reveal their sexual orientation, gender identity or sexual characteristics to those who work with them (21% in the EU28), confirming the difficulty of coming out for fear of further harassment.

As with discrimination, LGBT+ people tend not to report the violence they experience. Regarding incidents of violence, the tendency to remain silent is even greater: 24% of people in Italy and 21% in the EU28 reported the last incident of a hate-motivated physical or sexual attack perpetrated against them to an organization. Reporting also varies according to how open people are about their sexuality and gender identity: the more people tend to hide their identity, the less likely they are to report the violence and harassment they have experienced.

Reporting rates are even lower when police officers are involved: 16% in Italy and 14% in the EU28. Indeed, the data collected at the European level show that the main reasons why victims do not report are because they do not trust the police and because they think that the police would not or could not do anything. These reasons are also the most common in Italy, where 15% of victims do not report because they are ashamed, embarrassed or do not want anyone to know, compared with 13% in the EU28.

By giving a voice to LGBT+ people, the data collected by the FRA (2020) survey allows us to go beyond the representation of violence that emerges from the OSCE statistics on HCs, and to shed light on the multiple discriminations that these people face in their daily lives. In this way, we can move away from focusing on individual incidents of violence to highlighting the varying and widespread nature of the violence. The violence can take different, more or less explicit forms ranging from insults and threats to episodes of physical violence, which are not always reported to the police or social services.

An observation that is relatively more common in the Italian sample than in the European sample is the difficulty to freely express one’s sexual orientation and gender identity, not only in public places, but also within close relationships or among frequent acquaintances, such as at work or in the family. Even in these spaces, the fear of being subjected to microaggressions or mistreatment in some cases leads to a selective “coming out”, resulting in LGBT+ people hiding details of their lives from most acquaintances, colleagues, friends and family members. There are still instances where exclusionary dynamics are
reproduced in the family or at work, where discrimination, microaggressions or more serious violence discourage LGBT+ people from “coming out”. It is no coincidence that the UN independent expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, issued several recommendations in 2020 with the advent of the COVID-19 pandemic and the related domestic confinement measures, aware of the additional risks that forced cohabitation would pose, especially for LGBT+ youth living in hostile family contexts (Madrigal-Borloz, 2020).

Conclusion

The analysis of the (lack of) criminalization of homoselbitoransphobic violence in Italy clearly reflects the complexity and ambivalence of the political and legal debate on HC. On the one hand, the Italian public debate seems to confirm the criticisms raised in the socio-legal and critical literature regarding the use of the criminal paradigm to address the problem of discrimination and prejudice-based violence, thus depoliticizing what is instead a political and social problem. On the other hand, in Italy, because of their symbolic value, HCs continue to be a source of political conflict. The public debate that has at various times surrounded the attempt to extend the aggravating factors of racial, religious and ethnic motives already provided for to include sex, sexuality, gender and gender identity, and disability, has in fact been part of a broader context of demands for civil, economic and social rights. These rights were (and are) not only about the narrow issue of violence as it can be defined within a criminal code, but also about the need for citizenship rights. In this vein, the recognition of crimes related to homoselbitoransphobia has been defined by transfeminist and queer movements as a “minimum threshold” of symbolic recognition of their lives by the state.

In fact, regardless of the existence of a crime as defined by the penal code, data collected from victimization surveys have shown that the range of violence and discrimination experienced by queer people, as well as the impact in terms of daily fear and distrust of institutions, is much wider than what is captured by the criminal definition. From this point of view, feminist and queer movements have pointed to a different path in their campaigns, in the direction of transforming the heteronormative assumptions of citizenship and the recognition of political and legal rights.

International comparative research clearly shows that in Italy LGBT+ rights are not a priority either for the political class (ILGA, 2022) [3] or for a significant part of the population (Eurobarometer, 2019). The high rates of underreporting are emblematic of the social and cultural isolation of LGBT+ people and their mistrust of public institutions. There is a need for significant public investment in training and education for social workers and in law enforcement, as provided for in the Zan bill. Without appropriate skills in this area, victims of HC will not be recognized, nor their needs adequately addressed.

Moreover, in a vicious circle, the lack of policies to protect the safety and integration of LGBT+ people has a negative impact on the ability to produce valid and reliable knowledge about their living conditions, and therefore on the ability to promote a balanced public discourse aimed at raising public awareness on these issues. As mentioned above, without a law on HCs against LGBT+ people, the data collected by the police is biased and undermined at its base by underreporting and underrecording. It is therefore necessary to move in a direction that would overcome the criticisms that made the last bill unacceptable to a section of the political class.

As noted above, the data on HCs are not sufficient to shed light on the true extent of experiences of discrimination and violence, which are better represented in victimization surveys. Here too, important steps are being taken, as shown in the special surveys of the LGBT+ population carried out by the National Institute of Statistics, the first data which have only recently been published (ISTAT 2022, 2023) [4]. However, to promote real change,
these surveys need to be carried out regularly and become structural, so that they are not jeopardized by the different sensitivities of the political parties that take turns governing the country, for some of which LGBT+ rights are never a priority.

Notes

1. OSCE is an intergovernmental regional security organization for the promotion of peace, political dialogue, justice and cooperation in Europe, which currently has 57 member countries.


3. International Lesbian and Gay Association

4. Italian National Institute of Statistic

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**Further reading**


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