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# **Sewing the tear. An analysis of the application of the restorative justice model to hate crimes against the LGBTQIA+ community in Italy**

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## **Abstract**

Restorative Justice is a criminal justice system focused on the victim's experience, aiming for symbolic reparation of harm rather than punishment of the offender. Unlike the retributive model, Restorative Justice emphasizes healing the rupture between victims, offenders, and the wider community. It empowers all parties to express their feelings, restoring the victim's dignity and assigning appropriate responsibilities to the offender. In Italy, Restorative Justice initiatives have primarily been implemented in juvenile justice, with the Cartabia reform promoting this approach further. Given its focus on victims' needs and the importance of generative dialogue, Restorative Justice could be particularly effective in addressing homophobia and transphobic incidents. It allows queer victims to share their stories while encouraging offenders to acknowledge the harm caused by their actions. Furthermore, Restorative Justice can facilitate rehabilitative programs that dismantle harmful prejudices, fostering empathy and social integration. The approach offers the potential to create rehabilitative frameworks that benefit both individuals and communities. However, implementing Restorative Justice involves challenges, particularly concerning the training of practitioners. Those working with victims and offenders must be well-versed in the dynamics of LGBTQIA+ hate crimes and their societal implications. Notably, the Italian legal system does not recognize sexual orientation and gender

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identity as specific motivations for hate crimes. This article examines the current Italian scenario regarding Restorative Justice and homophobia and transphobic incidents by analyzing national and European documentation. It also engages with associations promoting Restorative Justice to explore their experiences. The aim is to highlight the potential of Restorative Justice and offer solutions to address its limitations. The underlying belief is that enhancing written documentation on Restorative Justice will spark deeper reflection, laying the groundwork for the development of informed and effective restorative projects.

**Keywords:** restorative justice, LGBTQIA+, hate crimes.

## Introduction

This article originates from the desire to shed some light on the application of the Restorative Justice model to hate-motivated crimes, examining its potential benefits, as well as its inherent limitations.

In recent years, Restorative Justice has gained increasing attention as a complementary approach to traditional criminal justice. However, its application to hate-motivated crimes remains limited and contested. This research seeks to critically explore the potential and the challenges of employing the restorative justice framework in addressing hate crimes, focusing both on its capacity to promote accountability, recognition, and healing, and on the structural and normative barriers that may limit its effectiveness.

The Authors aim to contribute to the still limited academic literature on the application of Restorative Justice to hate crimes. Despite legislative efforts across Europe, such crimes remain widespread. The European context is central to this analysis, reflecting both the professional and geographical background of the authors, who are based in Italy.

For this reason, the authors have structured the article in three parts. The first part focuses on the key features of hate crimes, the second part examines the theoretical foundations of Restorative Justice, and the third part presents the research findings. This structure is intended to guide the reader through a coherent analytical progression culminating in the empirical research, which represents the heart of this work. Through the voices of victim support organizations and mediators with expertise on Restorative Justice, it aims to examine how this approach is understood, interpreted, and potentially applied in bias-motivated crimes.

## Hate Crimes: definitions, normative frameworks, and violence against queer people in Italy

A relevant definition of hate crimes was given by ODIHR (the Office for Human Development Initiatives through Research), an organ of OSCE (the Organization for Security and Co-operation in Europe) in 2003. As stated by ODIHR (2024):

*Hate crimes are criminal acts motivated by bias or prejudice towards particular groups of people.*

Hate crimes take place:

*when a perpetrator has intentionally targeted an individual or property because of one or more identity traits or expressed hostility towards these identity traits during the crime (ODIHR, 2024)<sup>1</sup>.*

These crimes carry symbolic meaning, often aimed at distancing the offender from the targeted group. Even without personal hatred, such actions still qualify as hate crimes (Sette & Sicurella, 2024).

An important, yet dangerous, aspect of these types of crimes is that

*people or property associated with - or even perceived to be a member of - a group that shares an identity trait can also be targets of hate crimes, such as human rights defenders, community centers, or places of worship (OSCE, 2024)<sup>2</sup>.*

As a result, communities become indirect victims, along with society as a whole, which suffers the consequences of these behaviors in terms of social cohesion, as well as public safety and order. The psychological effects of victimization – such as anxiety and fear – can, in fact, lead to further retaliatory acts of violence (Sette & Sicurella, 2024).

With the term “identity traits”, academics refer to characteristics shared by a group of people that are used to identify and differentiate individuals or groups (ODIHR n.d.; OSCE n.d.). These traits reflect a profound aspect of someone’s identity and are often the focus of bias in hate crimes. Among the identity traits most frequently protected by democratic societies, reference can be made to the Communication from the European Commission to the European Parliament and the Council of 9 December 2021, No. 777, which outlines various bias-based motivations that include: race, color, religion, descent or national or ethnic origin, sexual orientation, gender/sex,

<sup>1</sup> Webpage, retrieved from <https://hatecrime.osce.org/> . The OSCE’s Office for Democratic Institutions and Human Rights publishes the data each year on November 16 - International Tolerance Day.

<sup>2</sup> Webpage, retrieved from <https://hatecrime.osce.org/> .

disability and age. These categories are often those with a long history of oppression or strained relations with law enforcement and the justice system (Sette & Sicurella, 2024).

Hate crimes also present specific features that distinguish them from other types of offenses:

- Plural victimization: hate crimes directly target individuals based on protected characteristics while indirectly harming their wider minority community (Chirico et.al., 2020).
- Under-reporting: this due to psychological barriers such as fear, denial, and mistrust of authorities, with victims often normalizing frequent hate-motivated acts (Sette & Sicurella, 2024).
- Under-recording: it results from limited law enforcement awareness and the absence of specific legal or statistical categories, particularly in Italy, where hate crimes are frequently misclassified under generic offenses (Sette & Sicurella, 2024).
- Risk of escalation: socially tolerated low-level discriminatory acts risk escalating into more severe hate crimes if left unchallenged (Chirico et.al., 2020).

Gregory M. Herek distinguishes between old-fashioned heterosexism—overt discrimination including hate speech and crimes—and modern heterosexism, marked by subtle prejudice called microaggressions (Sue & Spanierman, 2020). Everyday remarks like “that’s so gay” and “not in a gay way” reinforce negative stereotypes and uphold social hierarchies, causing harm to both queer individuals and society by perpetuating systemic discrimination (Rinaldi & Ball, 2018).

According to the Council of Europe, hate crimes and hate speech are closely connected phenomena. While hate speech requires careful balancing with freedom of expression (OSCE, n.d.), it underscores the tension between this right and the protection of human dignity and equality as protected by the European Convention on Human Rights (Sette & Sicurella, 2024). Although not all hate speech leads to hate crimes, the latter rarely occur without prior stigmatization and dehumanization of victims, illustrating their link (Sette & Sicurella, 2024).

The consequences of victimization for queer individuals are numerous and varied, but they can be broadly summarized by the psychological concept known as ‘Minority Stress’— the chronic stress faced by minority groups due to ongoing discrimination (Faggiano, 2021). This stress results in anxiety, depression, feelings of inadequacy, fear of seeking help, and distrust of institutions.

As a society, we can hope to mitigate the effects of minority stress through a form of social resilience, by building a social climate that truly supports present and future victims and

reshaping the public narrative about sexual and gender minorities. Effective prevention and victim support require substantial resources and commitment from local institutions.

While free helplines offered by queer organizations are common, they have often shown limited effectiveness (Gusmeroli & Trappolin, 2019). However, this is by no means the fault of the organizations themselves, but rather a reflection of the challenging Italian environment in which they operate, where despite the dedicated work of activists and staff, queer victims often find themselves in a broader national context with limited recognition and protection.

The impact of homophobic hate crimes is shaped by intersecting identity factors, making it essential to avoid treating anti-queer violence as a uniform experience (Meyer, 2015). Marginalized groups – such as women, people of color, low-income individuals, etc. – often face heightened risks, yet mainstream narratives have historically focused on privileged LGBTQ+ voices. An intersectional lens highlights how multiple forms of oppression intersect within these experiences (Crenshaw, 1989; Meyer, 2015). While the definition of hate crimes varies by legal context, they all require particular attention due to their serious consequences—even when involving non-violent acts like threats or vandalism (Buist & Lenning, 2022).

The authors use the term "homobisexualtransphobia" to inclusively represent hate crimes based on sexual orientation or gender identity, which they find more accurate than the broader term "gender-based hate crimes." This expression covers offenses – whether against individuals, property, or organizations – motivated by real or perceived gender identity or sexual orientation (OSCE, 2021).

This issue is not yet addressed within the Italian legal framework, as the Italian legal system does not provide specific anti-homobisexualtransphobia laws. The first Italian law to condemn hate crimes in Italy was the so-called "*Legge Mancino*" which entered into force in 1993. Although it sanctioned discriminatory acts based on religious, ethnic or national affiliation, it does not mention sexual orientation or gender identity (Gazzetta Ufficiale della Repubblica Italiana, 1993). At the European level, The European Parliament's Resolution of the 18th of January 2006 on homophobia in Europe strongly condemns discrimination based on sexual orientation and urges Member States and the Commission to combat homophobia through legislative, educational, and judicial means (European Parliament, 2006). This resolution exerted political pressure on Italy, but it did not have any immediately binding effects (Potè, 2019).

Fortunately, in the years that followed, Italy made some progress (European Parliament, 2012). The first serious attempt to extend the *Legge Mancino* to include sexual orientation and gender identity was a bill called "*Legge Scalfarotto*" (2013). It proposed aggravating factors and specific sanctions against acts of anti-LGBTQ+ violence. However, it never became law. It is a perfect example of how the Italian system attempted to update itself but remained blocked by political compromises and cultural resistance. Secondly, Italy approved the civil unions law called

“*Legge Cirinnà*” in 2016, which legally recognized civil unions between same-sex couples. Finally, Italy presented another bill, the “*Ddl Zan*”, which sought to expand Italy’s anti-discrimination and hate crime legislation. Again, this bill was blocked in the Senate in 2021.

Considering all of this, there is no comprehensive framework regarding hate crimes in Italy, and according to many Italian professionals and academics it gives rise to various issues. This results in the misclassification of hate crimes as ordinary offences, and a lack of consistent legal and policing protocols. In the second place, victims feel overlooked and inadequately protected, they often experience secondary victimization, which can lead to a growing sense of distrust towards law enforcement (Monzani, 2019). Finally, the lack of empirical analyses that recognize gender identities and sexual orientations as variables not only slows criminological reflection on these issues but also hinders the implementation of specific policies and interventions.

When investigating the reasons for such resistance in Italy to recognise hate crimes motivated by homophobia and transphobia, one possible explanation might be the widespread misconception that hate crime laws aim to give queer people “special rights.” In reality, such laws aim to recognize the broader harm that hate crimes cause to people who already experience marginalization because of their non-conforming identities throughout their lives.

## **Restorative Justice: the evolution of the approach, methods and legislation**

Historically, the Italian criminal justice system has relied on retributive and rehabilitative models. However, both approaches showed limitations over time.

Both these models neglect the victim whose recognition occurs only if the defendant is convicted or through financial compensation. No consideration is given to the suffering caused by the harm, to the victim’s investment of time, energy, and resources in seeking justice, nor to the consequences after the trial. The victim’s feelings of pain, anger and desire for vengeance are often ignored. Lattari (2021) claims that the justice mechanism is not structured to include the full human dimension that permeates the crime. The conflict is “institutionalized” allowing, on the one hand, the State to intervene in an impartial way, but, on the other hand, disregarding the fact that the violated interest is not only legal, but also human (Lattari, 2021).

Another key limitation of traditional justice models is their failure to consider the relational dimension of crime. This includes not only the pre-existing relationship between victims and offenders but also the future evolution of that relationship.

Crime not only violates the legal norm but it also damages social norms and the shared agreement to adhere to such norms. While punishment may initially appear to be a proper

compensation, it fails to address what happens after the sentence: the needs of the victim and community, and the future reintegration of the offender. The community is called upon to play a role in re-accepting the offender, but without acknowledging the harm done to social bonds, such reintegration becomes nearly impossible (Brambilla & Frigerio, 2024).

Restorative Justice stems from the cracks of traditional justice systems. This approach wants to consider the social and personal consequences of the crime and wants to shed light on the interrupted relationships between stakeholders (Monzani & Di Muzio, 2018). Its goal is to repair “the tear in the web of relationships” (Zehr & Gohar, 2002, p.18). To do so, the focus must be shifted from the punishment as a compensation, to the needs of the victims, of the offenders and of the community at large (Scardaccione, 1997; Zehr & Gohar, 2002). Restorative Justice works on rebuilding the sense of responsibility for one's actions (Scardaccione, 1997), providing a space in which the victims can express their pain and anger and obtain recognition, while the offenders can share their point of view, gaining awareness of their actions. Both parties take an active role in seeking reparation, even purely symbolic, for the harm caused: the offender can propose an action, and the victim can either accept it or suggest an alternative.

In this approach, community involvement is essential. First of all, Restorative Justice addresses the environmental context in which the offence occurred, and secondly, it gives back to the community a key role in re-educating deviance. In this regard, Braitwhite (1989) claims that shaming can also be “reintegrative”. Community disapproval may serve an educational function when it is accompanied by active gestures of acceptance and reintegration. According to Ciappi, Masin and Pavan (2020), community involvement makes it possible to address a collective issue and strengthen the sense of belonging to the community, restoring a pedagogical role to justice. One key principle of Restorative Justice is the principle of voluntariness: a restorative process can only take place if all stakeholders freely choose to participate in it. If the process were mandatory or imposed, if the parties were not genuinely interested or were seeking revenge, the ultimate goal of Restorative Justice - a conscious dialogue that goes beyond the conflict - would be undermined. For this reason, restorative processes often take significantly longer than the traditional ones because of the time needed to develop the willingness to engage with one another.

The main Restorative Justice method is victim-offender mediation (VOM), where a neutral mediator facilitates a dialogue between victim and offender. This usually involves individual preparatory meetings, followed by a single joint session, aimed at expressing emotions and reaching a restitution agreement (Ciappi et.al., 2020). The mediator must remain impartial and must be willing to acknowledge and hold personal experiences and stories from both the victim and the offender. Their role is to represent alterity, the possibility of a new situation.

Another form of reparation that does not involve a direct meeting is the apology letter.

In some cases, it is possible to extend the dialogue beyond the victim and the offender to include the community. The circle approach involves a broad and inclusive dialogue between multiple participants, in a circular and equal setting, guided by a trained facilitator. These groups may also include family members, as in family group conferencing or circle sentencing.

In some situations, it is not possible to engage in direct dialogues, where mediation is conducted with a proxy victim, meaning a person who has experienced a similar crime, though not the exact same one. Experience in this field has shown that such processes have been very effective for both offenders and victims, even though they do not carry the same significance as direct mediation (Lattari, 2021).

Victims of crimes without identified offenders can also take part in Victim Impact Panels or Victim Empathy Groups, where they share their experiences with others affected by or responsible for similar harms (Monzani & Di Muzio, 2018).

Restorative Justice offers an alternative, not a substitute, to the traditional justice system. However, a key risk is that it may be perceived as a way to avoid punishment (Palermo, 2024). In reality, unlike alternative sentences like probation, restorative practices are carried out for the benefit of the victim or in agreement with them.

In Italy, Restorative Justice began to spread in the 1990s, mainly within the juvenile justice system, where the legal framework favored rehabilitation over punishment due to the developmental stage of minors (Monzani & Di Muzio, 2018; Palermo, 2024). In contrast, applying Restorative Justice in the adult system is more challenging, largely due to victims' reluctance, driven by doubts about offenders' ability to change and concerns over the avoidance of punishment (Palermo, 2024).

At the European level, the growth of this approach has been supported by the European Forum for Restorative Justice and non-governmental organizations such as Restorative Justice for All Europe.

In Italy, legislation has developed slowly. Only between 2014 and 2017, with the "*Orlando Reform*", Restorative Justice began to gain greater recognition. This reform, however, focused primarily on the offender's rehabilitative needs, neglecting the victim (Monzani & Di Muzio, 2018). More recently, Restorative Justice re-entered the legal debate with the Legislative Decree 10 October 2022, n. 150, known as the "*Cartabia Reform*". This decree allows access to restorative programs at all stages of criminal proceedings and sentence execution, regardless of the offense's severity, provided that the programs are feasible and do not harm the victim or the criminal justice process. Additionally, the reform explicitly recognizes the community as a stakeholder, acknowledging the social consequences of crime. It also promotes the creation of a national register of expert mediators and the recognition of Restorative Justice Centers. However, it refers only to direct or general mediation programs, overlooking other projects. In



some occasions, authorities may refer cases to Restorative Justice centres *ex officio*, without necessarily considering the victim's opinion, thus undermining the principle of the voluntary and conscious participation of both parties (Cingari, 2024). Overall, while the decree represents significant progress in promoting Restorative Justice, it remains offender-centered and risks marginalizing victims.

### **Initiatives of Restorative Justice and possible application to LGBTQIA+ hate crimes**

Regarding the application of restorative programs, concerns have been raised particularly in cases of relational and domestic violence, where complex dynamics can be difficult to recognize even for those directly involved. In such contexts, restorative dialogue risks causing a secondary victimization of the victim or a relapse into the cycle of abuse (Monzani & Di Muzio, 2018).

In contrast, some scholars view this approach as a valuable tool in environmental crimes, giving the chance for the community to come together and collectively address the harm suffered (Natali, 2015). Restorative Justice has also been applied to terroristic attacks. In “The Book of the Encounter” (Bertagna, et.al., 2015), mediators facilitated dialogue between victims and perpetrators of terrorism in Italy during the 1970s. The outcome was a profound and transformative restorative dialogue. Even in such complex cases, where there is no close relationship between victim and offender, the project demonstrated Restorative Justice's transformative potential.

In recent years there has been growing discussion about the potential application to hate crimes. Even in these cases, there is often no specific relationship between the offender and the victim. Hate crimes also have particular characteristics that deserve attention as explained above, but Restorative Justice provides positive opportunities by offering a neutral space for narration and reparation.

Specifically, some recent studies have explored the restorative potential in response to hate crimes against the LGBTQIA+ community. Among them are the LetsGoByTalking project, promoted by the European Forum for Restorative Justice, and the Restorative Justice for LGBTQ+ Hate Crime project, led by the UK-based organisation Why Me?.

The LetsGoByTalking research highlights that, in Italy, there are no dedicated programs for victims of homolebophobic hate crimes, although promising local strategies do exist. Bertelli and Viggiani (2022) report that awareness of the restorative model remains limited both among LGBTQIA+ associations and Restorative Justice services.

The academic literature, supported by these recent studies, emphasizes how the creation of a restorative space can benefit victims by allowing them to share the harm they have suffered and the consequences on their daily lives and also on their sense of identity. Moreover, it enables

victims to articulate broader structural dynamics they face in society, giving voice to their experience of minority stress (Walters, 2020). Such a space thus becomes a way for legitimizing the victim's experience, especially in contexts like Italy, where hate motivation is not formally recognized in the prosecution of these crimes (LetsGoByTalking Project Consortium, 2021).

From the offender's perspective, restorative dialogue allows for a critical reflection not only on the crime but also on the underlying beliefs and prejudice that motivated it. This process enables the offender to see the victim as a person, rather than as "the abstract target of their prejudice"<sup>3</sup> (Restorative Justice for All International Institute Europe, 2024, December 4, and thereby allow them to develop empathy (LetsGoByTalking Project Consortium, 2021). The pedagogical potential of Restorative Justice extends beyond the individual offender and can also impact the broader community. Listening to the victims' experiences can raise awareness on the prejudice and stereotypes that contribute to marginalization, fostering a cultural transformation (Bertelli & Viggiani, 2022). In addition to this, the recognition of the victim represents a stance taken by the community and signals that effective responses are in place<sup>4</sup> (Restorative Justice Council, 2016, July 4). The result is a strengthening of community cohesion, both among those who condemn hate crimes and those who perpetrate them, gradually breaking down prejudice and, thus, acting preventively (RJ4ALL, 2024, December 12). As Bertelli and Viggiani (2022) point out, retributive justice falls short when it acknowledges only the individual nature of crime, failing to address the systemic nature of discrimination and further penalising the minority group.

However, it is necessary to be aware of the risks and issues within the application of this approach. First of all, mediators need to have a good understanding of minority stress, of how to support and listen to a queer person, and the risks of deadnaming or outing them, for instance (Millington & Robinson, 2024). LGBTQIA+ organizations also need training on Restorative Justice topics in order to adopt the approach in an appropriate and informed way (Domínguez Ruiz & Roiha, 2024; Bertelli & Viggiani, 2022). Finally, it is essential to be aware of the risks of secondary victimization that may occur when the victim meets the offender. Research carried out by Why Me? supports, in this regard, the effectiveness of using mediations involving proxy victims (Millington & Robinson, 2024).

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<sup>3</sup> Webpage, retrieved from <https://www.rj4all.eu/hate-related-harms/>, published on 2024, September 5, modified on 2024, December 4.

<sup>4</sup> Blog post, retrieved from <https://restorativejustice.org.uk/blog/restorative-approach-hate-crime>, published on 2016, July 4.

## **The research**

### **Methodology**

The aim of this research was to explore the potential use of Restorative Justice in cases of homophobia and transphobic hate crimes in the Italian context, taking into account the limitations and possibilities.

The participants were mediators working in Restorative Justice mediation centers and professionals working in associations that support queer victims and provide services for the LGBTQIA+ community.

The sample consisted of 8 participants: 5 mediators and 3 representatives from LGBTQIA+ associations, some of whom took part jointly as representatives of the same organization. Participants came mostly from North-Eastern Italy. Although the sample size is limited, the interviews yielded valuable insights that helped to outline the perceptions, experiences, and critical issues raised by the professionals involved.

Original names have been replaced with abbreviations: “M” for mediators and “A” for associations. The use of distinct codes reflects the diversity of narratives and roles examined.

After examining the pre-existing literature, the legal and institutional documentation, a semi-structured interview was developed to guide the conversation through key topics, while also allowing participants to freely share their personal narratives and experiences. Interviews were conducted in Italian: the translation in this article is as adherent as possible, but there is a chance that some language details may be lost in translation.

The transcribed texts were analyzed using a thematic analysis, following the model proposed by Braun and Clarke (2006). The interviews were examined by the Authors independently, leading to the identification of some key topics. The topics were then compared and described in different categories called “themes”, which were then examined in depth, leading to meaningful concluding reflections.

### **The narratives**

The participants’ narratives emerged both in response to targeted questions and spontaneously. A thematic analysis enabled the classification of these narratives into four main categories:

- 1) Knowledge of the Restorative Justice paradigms;
- 2) Role and identity of the institution;
- 3) Knowledge of hate crimes;
- 4) Suggested areas for intervention and practice

### *Knowledge of the Restorative Justice paradigms*

Among mediators, as expected, it emerges a well-articulated understanding of the goals and methods of Restorative Justice, its guiding principles and its primary areas of application. The narratives convey a deep sense of trust in the restorative approach and confidence in its effectiveness.

*Restorative interventions foster awareness and enable individuals to understand, to reach awareness of freedom, [...] to detach from their pain. (M3)*

*The feedback I received on several occasions, both from victims and offenders, was that they said 'someone finally listened to me'. I was moved by an offender in particular [...] He surprised me because he once told me 'you didn't give up on me, you gave me a chance.' I'm just the means, it was the [restorative] project that created an opportunity for him. People often wish to apologise, but they don't have the space to do so. (M3)*

*This is where [the restorative dialogue's] true power becomes evident: roles are dismantled, the community becomes a restorative tool, the offenders come to understand the harm they've caused and how to reintegrate into society, that is, how to be accepted again by the community. Offenders can realize that some people got hurt because of their actions, something which, in certain kinds of offences, it's not immediately acknowledged. (M2)*

At the same time, mediators clearly recognise the weaknesses of the restorative approach, which may stem from intrinsic limitations, or from external factors such as regulations and public perception.

*One of the weaknesses of Restorative Justice is the difficulty of it working where there is no acknowledgment, not so much of legal responsibility, but of the event itself and one's own accountability. Sometimes preliminary work is needed, which Restorative Justice alone cannot accomplish [...] Another limitation concerns the fact that the situations addressed are often complex and multifaceted, causing Restorative Justice to become marginal. When a person's life is burdened by many other problems, it's difficult to truly see the 'other' until all the rest has been dealt with [...] Another weakness is that Restorative Justice has not yet been fully integrated into the existing network [of social services]. (M4)*

*There have been many situations where we could not even begin [with a program], because one of its core principles is freedom, meaning that the individual has the possibility to stop and say no. We cannot impose mediation on anyone. (M3)*

As far as victim-support organizations are concerned, knowledge of the model appears rather fragmented. Indeed, the organization contacted are split between those who find Restorative Justice as a theoretically valuable tool but difficult to apply in practice; and those who, even at a conceptual level, consider it "dangerous" and insufficiently protective of victim's rights.

*I knew the name and little else about Restorative Justice. I understand it's a relatively recent tool. Frankly, my first reaction upon reading your request [to interview me] was: 'No way'. Working closely with victims of crimes, it's hard to imagine any model that brings the victim together with the person who attacked them from multiple perspectives. (A2)*

Another interview reveals a conceptual openness but practical difficulties in the implementation of Restorative Justice to hate crimes, due both to the lack of recognition of hate crimes (as we will further analyse below) and victim-support organization's limited economic resources:

*Sector organizations operate under very limited conditions, both due to a lack of financial resources and because of discrimination in the public discourse about our interventions. (A1)*

Furthermore, the interviews reveal confusion regarding the objectives and guiding principles of Restorative Justice.

*Restorative Justice can represent a tactic for the extinction of the offence and may fail to value the assumption of responsibility and the re-education of the offender [...] As we know, the judge can grant the suspension of the criminal trial with probation even in the absence of an agreement on compensation with the victim, which means excluding the civil party, who may then have to file a separate civil lawsuit to obtain compensation. (A1)*

*The first obstacle is certainly the lack of information about what Restorative Justice really is. It's not an alternative approach, but it's a complementary one. Even in the media, nonsense is often reported: many journalists portray this tool as an alternative to punishment. This becomes an obstacle to the formation not only of civil society but also of professionals: both in the legal profession and in the judiciary. (M4)*

#### *Role and identity of the service*

Within this category, we examined all narratives concerning the way the different services operate, the methods they employ, and their target users.

As for the mediators, the narratives emphasise the importance of creating an environment of listening, dialogue, and mutual understanding for both parties. In fact, the interviewed mediators give equal space to both the victim's and the offender's perspectives, focusing more on the opportunities for expression they provide.

*Our work leads us to reflect on what was felt, on the emotions experienced, that's where we start, and from there we build the mediation. As a result, we're not interested in figuring out who's right or wrong, but rather what happened inside you, how you felt [...] We create a setting with a very strict no judgment rule. This allows us to create a space where people feel welcomed and talk a lot, they open up [...] In mediation, there's no winner or loser, and our job is to help reach an agreement. (M3)*

These narratives highlight the obligation for mediators to be an equidistant figure, who does not take sides but keeps in mind the needs of both the victim and the offender.

As for the LGBTQIA+ services, the narratives reveal that the underlying approach is victim-oriented. As a matter of fact, for LGBTQIA+ services, the victim's experiences and needs are crucial. Among these, a key concern is avoiding any further victimization, for example, by preventing direct contact with the offender.

*From our victim-support service's perspective, Restorative Justice is important, but it must be carefully considered and developed, respecting and ensuring the centrality of the victim [...] It's necessary not to expose the victim to additional trauma. (A1)*

*[Speaking about the victim's experience]: pain, distrust of institutions...there's not just the assault itself, but also the loneliness, shame, and frustration that lead them to prefer not to report the offence. All of this has a huge social and cultural impact on the victim. (A1)*

Researchers directly asked the LGBTQIA+ services whether they had ever participated in any Restorative Justice project. Only one of the three contacted services had received a concrete proposal to work in this field. Specifically, the service had been approached for a project involving another association dedicated to the reintegration of individuals who had committed domestic and gender-based violence, also against the queer community. The proposal sparked a debate within the contacted victim-support service and was ultimately declined.

*A couple of years ago, there was quite a split within the board [of the service] and in the end, the majority decided not to collaborate with them. I believe that even those who work in victim-support roles and with populations targeted by discrimination, violence, and crime often show strong resistance when it comes to taking the step toward a collaboration on Restorative Justice projects, despite being, at least on paper, absolutely in favor of them. [...] As leaders of victim-support service, when it comes to collaborating with those working on such projects, there was a certain fear of betraying the trust of the people we work with every day. If I work daily with individuals who, even if not directly victimized by a specific crime, belong to a minority that is constantly under pressure, facing discrimination and community-targeted violence, then the moment I start a project with those who work with perpetrators of violence, there is a fear of being seen as betraying the cause. Bridge-building, in this sense, turns into [...] something like: 'you're not really defending the victims'. And this happens both in terms of internal personal relationships and how [the victim-support system] is perceived externally. (A3)*

What emerges, then, is a fundamental issue, that of the reputation and the risk of betraying the trust of the very people victim-support services aim to protect.

Another victim-support operator states:

*It can be risky to involve an offender in restorative processes within spaces that are specifically dedicated to the safety of victims. It would be more useful to invest in information and awareness-raising without overlapping victim-support spaces with those intended for the reparation or rehabilitation of offenders. [...] Since all resources are directed toward victims' assistance, it becomes impossible to invest in the offender's reparation as well. (A1)*

It is interesting to point out that in the interviews with victim-support services, the figure of the offender appears much less frequently compared to the interviews with mediators, highlighting their different operational approaches.

#### *Knowledge of homobiphobic hate crimes*

For LGBTQIA+ services, the lack of specific legal protection against homobiphobic hate is a crucial issue. In every interview conducted, this concern was repeatedly emphasized, particularly in relation to the experiences of victims. There is also a clear awareness of the pluri-offensive nature of hate crimes and the damage they cause on the entire community.

On the other hand, even mediators find it difficult to speak about cases involving hate crimes, as these are not legally defined or recognized as such. As a result, they are unable to quantify how many queerphobic hate cases they have encountered in their professional careers.

*In Italy, there is no specific law against hate crimes related to homophobia. This makes the motive 'invisible', meaning that the discriminatory nature of the crime is not acknowledged [...] A hate crime law would be ideal for the recognition of projects of this kind [...] What often puts us in difficulty is precisely the lack of comprehensive tools for protection, or the limitations of public and political discourse, shaped by stereotypes and prejudice that affect our work. There is also a lack of institutional recognition, which prevents us from offering systematic responses. We often have to improvise, proposing person-centered solutions that are rarely supported by institutional provisions. (A1)*

*If there is no law, then there is no crime, and therefore no harm [...] This already creates a difficult substrate for the victim, making it hard to accept any form of response that isn't centered on redemption, punishment, or penalty [...] I'm already a victim and a second-class citizen, I'm not even seen in the eyes of the state. So how can I trust any process that speaks of redemption and justice, let alone one that involves dialogue or rehabilitation for the offender? [...] If even femicides, where the individuals involved are cisgender and heterosexual people – socially 'valid' identities – are rarely punished or the perpetrators rarely caught, how can I – as a queer victim with an unrecognized sexual orientation and gender identity – expect to be part of a process that promotes rehabilitation?. (A2)*

*We do have aggravating circumstances in our legal system that could be applied, but they are often overlooked, because even magistrates themselves 'do not see' these crimes and thus are unable to frame them accordingly. (M5)*

The researchers also asked the mediators whether they had ever dealt with hate crimes based on ethnic or religious motives, not just queerphobic ones.

*Quantitatively, these are not large numbers, but even if few, they are serious. I've personally handled at least thirty cases of this nature since I started working as a criminal mediator. (M1)*

*Personally, I've never worked on such cases, and very few have reached the office either. I'm not exactly sure why, but I imagine there could be many more. I can't understand how, in 15 years of experience, not a single case like these has been reported. I suspect it may be due to a very high dark number for these crimes. (M4)*

*We've rarely come across these cases because they are hardly ever identified or officially recognized as such. (M5)*

More specifically, regarding hate crimes based on homolebophobic nature:



*There are no queer-targeted Restorative Justice projects because it isn't known as a tool! There's also constant fear and many preconceptions, especially concerning secondary victimization. (M2)*

Despite the scarcity of exemplary cases, one narrative stood out in illustrating the positive outcome of a mediation process for both victim and offender. It involved a mediation with a proxy victim who belonged to the queer community and an offender who had committed a serious offense against another community member.

*The mediation had a very positive outcome for both parties. One of the things the victim said was: 'Today, I feel like there's one less enemy I need to protect myself from'. (M5)*

Unfortunately, due to the scarcity of documented projects in this field, it is difficult to speak of clear empirical evidence regarding the effectiveness of restorative programs. Nonetheless, it remains important to give voice to the few existing experiences and to highlight the current state of the art.

At the same time, the narratives shared by mediators suggest that the focus should remain on how the parties felt and on ensuring a neutral space for free expression. This means, on the one hand, allowing the victim to choose whether or not to share their experience of identity-based harm; and on the other hand, the motivation behind the offense becomes a contingent issue, which is often not explored in depth due to time constraints.

*We never really begin from the starting point, which is the crime itself, especially if it stems from deeply rooted ideological beliefs [...] Restorative Justice shifts everything to the emotional level, to how I felt if you caused me some moral, physical or emotional harm [...] The issue is what you broke inside me. (M1)*

*In some of the cases we worked on, there was an 'unspoken' element. [...] It wasn't classified as a hate crime, but from the victim's narrative that element emerged – for example a strong political dimension in the background [...] In such politically charged cases, the point is not to convince someone that this element is there, but if this element arises from both narratives, then we try to facilitate their mutual communication about it, like: 'I felt I was attacked for this reason'. (M4)*

*These are issues that tend to emerge in more indirect ways. But you can't address them directly because then people shut down [...] It's possible to work on these topics, but it takes a great deal of time and sustained effort, and it's not easy [...] Outside the group of belonging, such things [more or less explicit prejudice and shared group norms] 'shouldn't be said'. (M5)*

It also emerges that queer victims are often forwarded to the designated services for specialized assistance, that mediators acknowledge they are not in a position to provide.

### *Implications for Practice*

All interviewees emphasise the positive potential that Restorative Justice can offer. In addition, concrete proposals were made by all participants. These proposals focus on network-building, raising awareness, starting with small but practical projects, and providing space for victims to speak directly and share their experiences. It is also clear that such projects should be approached gradually and with care.

*[Commenting on the lack of awareness of Restorative Justice tools within queer organizations] We are trying to build networks as much as possible precisely for this reason. We're getting there. And through awareness-raising and the victims' support desk, a lot can be done. (M2)*

*Right now, we're thinking about organizing a 'restorative' dialogue for young offenders, and we're considering involving some LGBT associations. It's not a project solely focused on hate crimes or discrimination. Maybe this is the path that allows us to start meaningful work, to slightly shift the focus, because when you stay strictly on the specific issue, there's no way out [...] Moreover, these dialogues often reveal a 'malicious interpretation' of the other, whereas mediation offers an opportunity to clarify these interpretations, which are often completely distorted—or at the very least, shaped by my own projections and fears that may not actually exist. (M5)*

*As far as I know, we've never talked about Restorative Justice within the association. But I will use this meeting to become a spokesperson for this possibility, because I think this area has not been sufficiently explored. (A2)*

*To overcome resistance, especially when it is shaped by social factors, a lot of work is needed on training, information, and public engagement. It may be more effective to start with modest projects. Maybe working on topics not directly tied to experienced violence or how violence is perceived by certain groups [...] Smaller projects involving individual cases may also make it easier to engage victim-support operators. I [...] believe the strongest voice could be that of the victims who choose to take part in these projects. Their vision and narrative might be the most effective way to involve those who already consider Restorative Justice a valuable approach but are hesitant to get personally involved [...] I also think open training groups could help plant seeds for this kind of work. (A3)*

Some mediators also speak about specific methods that could be practically implemented:

*For hate crimes, especially those involving minors, methods such as circles and family group conferencing, or extended restorative dialogues, could be useful. This applies to ethnicity and religion, but in my view also to the queer community. These are spaces where people can share their stories, tell others what matters to them, and express what has hurt them, with someone who listens to them on the other side. The offender doesn't excuse their actions, but shares what preceded them, where they come from, who they are. Common values can even emerge. (M2)*

*[Referring to mediation projects with proxy victims] It may seem incredible because you think, 'it's not the same person—what's the point?' But the work isn't about the specific act, it's about the felt experience. I could even tell a fictional story, but if that story evokes what happened to me, I'll have a very strong emotional and personal investment, so I will work on that. This allows me to objectify the subjective, to externalize it, work on it, make it malleable—and that's when it becomes effective. Restorative Justice doesn't solve everything, but I think it could be a very interesting path for everyone. (M3)*

A particularly compelling aspect of this narrative is the idea of involving the broader community in restorative projects:

*In these kinds of cases, something that could potentially be useful is community involvement. A crime like this, if treated as purely private, may not address all the justice-related needs these offenses can bring. Of course, whether the project is applied depends on what people want and on whether they prefer to speak privately [...] But we could consider broader community participation, and imagine a transformation that goes beyond the victim-offender dynamic. (M4)*

This testimony invites further reflection on the role of the community in these projects, not only in a general sense, but also specifically in relation to the LGBTQIA+ community, which will be addressed in the following section.

## Discussion of the results

After presenting the main categories that emerged from the thematic analysis and the most significant narratives, several critical reflections came up regarding the findings.

First and foremost, the absence of a clear normative framework concerning homobiphobic hate crimes appears to be a crucial issue. As highlighted both by the examined literature and the people interviewed, this legislative gap leads to serious operational challenges, resulting in a lack of legal and social recognition of these crimes and their victims. This translates into further difficulties in obtaining financial compensation. This factor may undermine victims' trust not only in institutions but also in the very concept of reparation. Even before considering compensation, victims may choose not to report the crime suffered. For mediation centers, this legislative void makes it impossible to categorise hate crimes as such

even at a statistical level. For LGBTQIA+ victim-support services, the absence of a legal and social recognition results in working with limited resources, which must be fully dedicated to the victims' assistance, which is their urgent issue, unlike any proposal of restorative projects.

Our hope is to see sexual orientation and gender identity included among the “identity traits” protected by our legal system, alongside religion, ethnicity, and national affiliation. Even in the absence of specific legislation, recognizing a legal status of vulnerability for members of the queer community would represent at least a first step toward acknowledging victims of hate. Restorative Justice certainly offers a form of informal recognition, but it is important to acknowledge that it is not a solution for everything: not all programs are feasible and it does not address the structural issues within the system (Walters, 2020).

From another perspective, it should be remembered that mediators create a neutral space of dialogue and do not consider the motive of the crime as a “central” aspect of their work. Neutrality, on the one hand could appear as a “not full recognition” of the victims. On the other hand, it is a key principle that brings some advantages: first of all, it allows mediators to work in all kinds of cases including those involving offences that are not fully covered by existing legal frameworks. In the second place, neutrality may be an advantage in involving the majority community, which often perceives having just a few points in common with the minority.

Also, a more accurate representation of Restorative Justice – especially in the media – as a complementary approach to traditional justice, could also enable victim-support services to see this approach as a viable option and help connect victims with restorative pathways.

Secondly, the role of the community appears to be fundamental in the restorative process, not only as a methodological tool - as seen, for example, in circle conferencing or family group conferencing - but also in the context of hate crimes, where the community itself can be considered an indirect victim. As discussed earlier, hate crimes can inflict deep wounds also on the victims' communities, who share the same identity traits, sending a clear warning to their members. In addition, victimization through hate crimes becomes a broader societal threat, undermining social cohesion, endangering public safety and contributing to a general normalization of violence (Sette & Sicurella, 2024).

The Authors' reflection, therefore, is that there's a “double level” of community: a broader one, represented by society or the general citizenry, and a more specific one, represented by the minority group targeted by the violence. Restorative Justice offers a framework through which communication can occur among the victim, the offender, and both levels of community. The victim may share their positive restorative experience with the rest of their community. The offender, meanwhile, is encouraged to reflect on the motivations behind their actions and, ideally, to challenge the prejudice and harmful beliefs embedded in their own reference group.

Also by broadening the dialogue to include both the majority and the minority group members, Restorative Justice can reduce the social distance between them and establish a contact between typically isolated services.

It is also important to acknowledge that the queer community already serves as a protective and reparative space, where victims are supported by people who share their same experiences. This is reflected in the empirical data gathered by the interviews, as mediators said that they frequently forward victims to the designated LGBTQIA+ service for specialized assistance. In doing so, the mediators implicitly recognise the essential psychological and social role these services play in supporting victims. However, the challenge lies in expanding reparative projects beyond the boundaries of the minority community. While the LGBTQIA+ community serves as a safety net through peer support, destigmatization, and a strong sense of belonging, the desire to shield victims from further harm may inadvertently result in the community becoming invisible in the broader public discourse. In fact, the Authors are convinced that, because of their social and psychological expertise, LGBTQIA+ victim-support services and associations could become key actors in restorative initiatives. Restorative Justice creates a safe and dynamic space for dialogue that is currently underutilised and largely unknown. Community participation can also give a strong signal that not only the individual was harmed, but the whole community felt attacked, contrasting the “invisibilization” aforementioned.

The mediators interviewed proposed concrete strategies to address this gap. The Authors suggest, for example, including LGBTQIA+ associations in circle conferencing or in mediation projects with proxy victims to ensure their perspectives are represented. Another proposal involves promoting small-scale restorative activities within these services themselves. Such a strategy has also been recommended by Domínguez Ruiz and Roiha (2024).

Finally, what emerges from the narratives is a general openness from both groups toward the implementation of Restorative Justice programs. Mediators may lack an in-depth understanding of the systemic dynamics of homophobia, biphobia, and transphobia, and of hate crimes more broadly. However, they possess key competencies in active listening and neutrality. On the other hand, while victim-support services theoretically view Restorative Justice as a positive approach, they may be unfamiliar with its practical implementation, and often operate within a context of limited financial resources.

Despite these differences, the objectives of both services are closely aligned, as both are committed to addressing victims' needs and promoting education and awareness. What is currently missing is the creation of a bridge between LGBTQIA+ associations and Restorative Justice mediation centers. This connection is the key to start concrete collaborations in this field.

Some practical proposals to achieve this connection:

- The development of research and academic literature, particularly focused on the Italian context, where the lack of a clear legal framework constitutes a structural vulnerability;
- The promotion and dissemination of a restorative mindset through seminars and public events. This would allow a more in-depth knowledge of the approach for professionals of victim oriented services, but also awareness of the existence of this approach for the broader community;
- The inclusion of testimonies from victims who have participated in restorative projects aiming to collect a first person account of the experience;
- The involvement of trained professionals who are aware of both mediation and discrimination-related issues, including microaggressions. Training in inclusive language is also essential, primarily to know how to address to queer people in order to avoid unintentionally contributing to a secondary victimization. In this regard, reference is made to the Good Practices outlined by the UK-based organization 'Why Me?'<sup>5</sup>. To do so, the collaboration of queer associations is central for teaching and spreading awareness to mediators and members of the legal field.

It's important to underline that these proposals are not intended to overlap spaces dedicated to the offender rehabilitation with those of victim support and protection. Rather, the goal is to establish meaningful contact between the two kinds of services, in ways that may benefit both areas of intervention, but especially the stakeholders involved. It is only thanks to this collaboration that professionals can acknowledge the specific area of expertise of each agency and the ways in which they can complement each other's similarities and differences in working with victims and authors.

## Conclusions

The overall view that we obtained in this study is complex: Restorative Justice is perceived as a valid tool for listening and recognizing the victim but there are some critical challenges that must be addressed, and the findings are consistent with other studies previously conducted in the European and Italian context.

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<sup>5</sup> Good practices are retrievable on Why Me? website: <https://why-me.org/library/>

This research highlighted the characteristics of hate crimes along with the potentialities of Restorative Justice.

Through the voices of the participants, it was possible to analyse the opinions and experiences of mediators and support services professionals and also to propose some practical suggestions.

This study is limited by its small sample size and the lack of stable, structured Restorative Justice initiatives addressing anti-LGBTQIA+ hate crimes in Italy. Direct experience with such cases would offer deeper insights into the strengths and limits of the approach. Future research should involve a larger and more diverse group of participants, including those who have taken part in mediation, to gain a fuller understanding of Restorative Justice's application. Additionally, studying offenders' reflections after mediation could help assess Restorative Justice's impact on prejudice and bias.

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