

# **The Challenges of Data Comparison and Varied European Concepts of Diversity**

Katherine Marquand Forsyth  
and Vanja M. K. Stenius

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Katherine Marquand Forsyth and Vanja M. K. Stenius, *Istituto Psicoanalitico  
per le Ricerche Sociali (I.P.R.S.)*

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# **The challenges of Data Comparison and Varied European Concepts of Diversity**

## **Summary**

Immigration to Germany, Italy and Finland represent different stages of the ‘new migration’ to Europe. The scale and types of immigration also differ between the three. Though each country is experiencing different stages of immigration, they all recognize the necessity to better integrate foreign minors. The three countries seem to have only recently started to regard themselves as countries of immigration. As a result, their policies towards foreign minors seem to be based on tolerating, not integrating them. The presence of foreign minors in the juvenile justice system is a reflection on their approaches and attitudes towards immigrants. Therefore, we set out on an 18-month project funded by the European Commission to study how being ‘foreign’ affects the treatment of minors in the penal systems in Italy, Germany and Finland. The project is called “INTO: Inside the Outsiders: Deviant Immigrant Minors and Integration Strategies in European Justice Systems.” In this paper, we will present the difficulties encountered when creating comparable data in terms of contrasting labels for and definitions of the target group and data collection as well as the solutions created for addressing these difficulties. At the outset of the project, it became clear that the terms used to define the target group had different meanings for each of the partners and one term was not deemed sufficient for use in all three contexts, both due to the immigration history in each country and due to the counting methods used by the data collection institutions in each country (National Censuses, Justice Systems, etc.). In the project proposal, we defined ‘immigrant minors’ as including two categories of children: 1) those born in the host country and are either naturalised citizens, hold dual citizenship or are permanent residents 2) children who immigrated to the host country with their family or by themselves. Yet statistical data in each country uses multiple and diverse terms to describe our target group – foreign minors, migrants, ethnic minorities, foreign citizens, etc. Clearly, this made the collection and comparison of three different sets of national statistics quite challenging. The diverse terminology and categorisation of ‘immigrant minors’ in the three countries made it difficult to find directly comparable statistics. The discussion of how to resolve this ‘technical’ difficulty revealed the different conceptions of what it means to be an ‘immigrant’ and a ‘minor’ in each country and within their respective social and judicial systems. This discussion reflected each country’s individual conceptions and laws regarding citizenship as well as their past and present approaches to integration. We argue that despite their different labels, social class and rights, foreigners, ethnic minorities and migrants share similar social conditions. Foreigners, even when they become citizens, still experience social constraints and suffer in the process of cultural integration. Migrants, who must overcome the legal and economic challenges and risks of migrating, have difficulty fully integrating into the host society. The second generation seems to experience greater frustration from their continued exclusion. Ethnic minorities are often identifiable and visibly different from the majority which prevents their full integration despite being long-established in a country. They all remain ‘foreign’ from the perspective of the autochthonous population. And when examining discrimination, we find that these terms often overlap and are used interchangeably. Given this background, it is no wonder that there are difficulties in addressing this ‘new migration’ to Europe. The social conflicts arising from the recent migration, during the last fifty years (at most), cannot be easily understood in terms of class, racial or ethnic conflict. While we might say the subjects of this conflict belong to a socially disadvantaged group or that

our societies are quick to discriminate against them, we cannot, since the situation is still not clear. What is clear is that it will continue to be difficult to study these difficult issues in a European setting if we lack of adequate, comparable data collection techniques in Europe. However, refining the techniques will require serious reflection and discussion of the terms currently in use and of the theoretical approaches to immigration in each of the European member states. This is a reflection we intend to begin in this paper.

**Keywords:** Diversity, Immigrant Minors, Marginalisation, Criminality

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*Address for correspondence:*

Katherine Marquand Forsyth  
Istituto Psicoanalitico per le Ricerche Sociali (I.P.R.S.)  
Passeggiata di Ripetta, 11  
00186 Roma  
Italy  
Phone: +390632652401  
Fax: +390632652433  
E-mail: [iprs@iprs.it](mailto:iprs@iprs.it)

## **Minors, marginalisation and deviance**

The study of immigrant minors has become increasingly important due to changing immigration patterns in Europe, the growth of the European Union and subsequent changes in immigration laws. While numerous migration and integration studies exist (e.g., Agenzia Romana per la preparazione del Giubileo s.p.a., 2000; Lahav, 2004; Tonry, 1997) changing demographic trends and diverse social contexts necessitate the re-examination of immigration and integration, particularly in the context of migration policies and integration strategies that have moved from the national to European level. There is also a pronounced need to study the integration of minors (see Westin, 2002), who have come to the fore as a result of settled immigration. Many of these minors face the immediate challenge of inserting themselves in a society where they likely do not know the language, much less the customs and culture of their new home. In addition to dealing with their own trauma and identity problems regarding their “ambiguous sense of belonging” (in terms of being accepted by and feeling part of the host country) (IPRS, 2003) to the host and home culture and physical space, children often internalise their parents’ difficulties as well (Portes, Fernandez-Kelly and Haller, 2004).

In fact, the growing presence of foreign minors as an increasingly vulnerable population has come to represent a real challenge for host countries, especially in the social service and juvenile justice systems. Not coincidentally, within these sectors, there has been some experimentation with new strategies for managing cultural diversity; the emphasis of these efforts has been on preventing the conflicts that threaten integration. The existence of cultural mediators and intercultural training courses exemplifies the training that is being provided to social workers. This shows increasing institutional sensitivity regarding this new problem, as well as a specific effort to include a wide range of actors in identifying means to reduce the risk of marginalisation for foreign minors.

Nevertheless, most migration and cultural diversity policies only partially guarantee immigrants’ insertion in their host societies (see pjb Associates, 2001). This holds for minors as well. Many recent studies not only show signs of low integration of young migrants, but also that this lack of integration can lead to problems for this particularly vulnerable group and, in turn, to involvement in deviant behaviour (Giovanetti, 2002; Marshall, 1997; Pastore, 1995). The increase in foreign minors’ involvement in criminality, their limited opportunities to benefit from alternative forms of detention within the justice system, and exclusion and marginalisation (especially for unaccompanied minors) (IGC, 1997; IOM, 2001; Silva and Campani, 2004), has contributed to the public perception that that foreign minors are highly involved in delinquency. This is an issue that must be confronted in order to avoid further marginalisation and stigmatisation of foreign minors in the host countries.

Increasing our understanding of the involvement of foreign or immigrant minors in criminality and the extent of their marginalisation is not an easy task, especially at the European level where difficulties relating to data collection and definitions become even more pronounced due to efforts to compare different data and justice systems. This paper discusses the main difficulties and findings from one such effort (involving Finland, Germany and Italy) and suggests that synthetic indicators may be used to gain a more expansive and comparable understanding of the risks that these minors face in regards to marginalisation. The development of such indicators requires serious reflection. We present it here in the hopes of beginning a discussion on the subject in order to further develop the idea and subject it to testing and evaluation. The overall goal is that these indicators may be used to evaluate the effectiveness of policies for integrating foreign minors in the European Union, among other useful applications.

## **Addressing the Criminal Involvement of Foreign Minors**

Concern about the marginalisation and criminal involvement of foreign minors led to the development of “InTO: Inside the Outsiders: Deviant Immigrant Minors and Strategies in European Justice Systems”<sup>1</sup>, which was funded by the European Union “Integration of third country nationals” (INTI) programme. The project was created and directed by the Psychoanalytic Institute of Social Research (IPRS) in Italy in partnership with CJD-EUTIN in Germany and the Finnish Youth Research Network in Finland. This 18-month transnational project set out to analyse the conditions that seem to negatively influence immigrant minors integration paths in the three partner countries (Italy, Germany and Finland), in order to identify direct and indirect forms of marginalisation and deviancy. More specifically, the project analysed the strategies used by the juvenile justice system in each country to manage cultural diversity and respond to the needs of these new clients with the goal of increasing young deviant immigrants’ rehabilitation opportunities.

## **Immigration in Germany, Finland and Italy**

The selection of Germany, Finland and Italy as project participants is significant in that they represent different stages of the ‘new migration’ to Europe. The scale and types of immigration also differ between the three. Though each country is experiencing different stages of immigration, they all recognize the necessity to improve the integration of foreign minors. The three countries have only recently started to regard themselves as countries of immigration. As a result, their policies towards foreign minors seem to be based on tolerating, not integrating them. The presence of foreign minors in the juvenile justice system is a reflection of their approaches and attitudes towards immigrants. In response to these issues, we began a project in June 2004 to study the integration of foreign minors. Since criminality is an important dimension of marginalisation, the project focused on minors’ involvement with, and treatment in, the juvenile justice system. The project made it possible to identify many factors related to the criminal involvement of these minors; factors that may also be important dimensions of marginalisation.

## **Methodology**<sup>2</sup>

For the sake of this project, the target group was defined as ‘immigrant minors’ or ‘foreign minors’. This term includes two categories of children: 1) those born in the host country who are either naturalised citizens, hold dual citizenship or are permanent residents; 2) children who immigrated to the host country with their family or by themselves. It should be noted that records in each country use multiple and diverse terms to describe our target group (e.g., foreign minors, migrants, ethnic minorities, foreign citizens, etc.), which has significant implications for the ability to conduct this research on the national and then multi-national level. These issues are discussed later on in the paper.

In order to understand criminality in connection with the target group (foreign minors) in Germany, Italy and Finland, a two-pronged research approach was taken. In the first stage, a quantitative methodology was used to provide an overview of foreign minors’ presence in each of the national juvenile justice systems. Each partner gathered information and statistics from the Ministries of Justice, the Interior, Education, Youth (and other relevant ministries), from national

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<sup>1</sup> The final reports for the project were submitted to the European Commission in January, 2006 and is available from the authors upon request.

<sup>2</sup> See the Final Reports (Quantitative and Qualitative) submitted to the European Commission in January 2006 for additional information about the methodology.

and state statistical institutes, and from literature on the issues. Each partner provided an analysis of this information, which was subsequently compared and combined in a quantitative report. This quantitative data enabled us to understand the problem at a macro-level and ascertain the extent of immigrant minors' involvement in the juvenile justice system and gain a better understanding of related factors (e.g., education).

The next phase involved qualitative research involving in-depth interviews and focus groups<sup>3</sup>. In-depth interviews with minors who were in the justice system at the time, or who had gone through the justice system in the past, were carried out with the goal of acquiring information on their migratory paths and deviancy and investigating fringe environments where there has been less available information. A total of 82 interviews were carried out: 32 in Italy, 30 in Germany and 20 in Finland.

Eight focus-groups were conducted (2 in Finland, 3 in Italy and 3 in Germany) with experts on foreign/immigrant youth and deviancy in the three partner countries: prison staff, social workers, teachers, practitioners, etc. The aim of the focus groups was to gather information on how the various national institutions where these experts work deal with cultural diversity. The focus groups served a second purpose, which was to better understand the characteristics of juvenile delinquency from the perspective of those who work with delinquent foreign minors on a daily basis.

Throughout the project, a network was created to facilitate communication between associations and institutions that work on preventing delinquency amongst foreign minors. This was achieved through transnational meetings in each partner country, and through the qualitative phase of the research. During both, project contributors discussed the project's results (the documents produced) and met with the directors of juvenile justice institutions, voluntary associations, social workers, representatives from the schools, cultural mediators and immigrant associations, with the goal of evaluating and discussing good practices and identifying possible solutions to the management of cultural diversity and reintegration of deviant minors in society.

Finally, the findings of the project were discussed among the project researchers, the scientific committee, policy makers and experts from Italy, Germany and Finland. The result of this discussion led to the creation of a policy recommendation paper both for future data collection and for policy makers, social workers and others who work with minors inside and out of the Justice System.

## **Data Collection and Definition Issues**

We found that the processes of defining key elements and collecting and analysing the data yield lessons for future research as well as for current policy. While certain issues were country-specific, a number of them apply to all three countries and need to be considered on the national as well as European level. For the purposes of this paper we focus on data collection problems, findings, and policy recommendations that we feel require attention on a European level, particularly in terms of using current diversity indicators and developing new ones.

### ***Difficulties with Comparability, Collection and Analysis of Quantitative and Qualitative Data***

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<sup>3</sup> Focus groups are a way of "operationalising inter-subjectivity". A *heterogeneous focus group*, comprised of partners from differing backgrounds, allows one to analyse the interaction between participants, with particular emphasis on the dynamics of diversity at the cultural, formative and professional level. On the contrary, the *homogeneous model*, characterized by uniformity regarding cultural, training and professional level, includes participants who lack a common terminology and must potentially overcome misunderstandings related to their cultural diversity.

As expected, collecting, analysing and comparing data from three different countries proved to be quite challenging. These problems regarding comparable quantitative data were noted by the scientific committee and have also been reported by other researchers working on European projects (e.g., the Child Immigration Project). Below is a list of the primary problems encountered relating to quantitative data collection, followed by a more developed discussion of the points we felt to be most complex, urgent and interesting, both in quantitative and qualitative terms.

Main quantitative data collection issues:

- All data on crime is based on official records rather than actual offending (e.g., self-reporting, victimisation and other studies)
- Within official statistics it is often not possible to determine whether someone is a migrant or of immigrant background
- Population data that precisely reflect the populations being studied are difficult to obtain or simply not collected in a way that is useful for this kind of research (especially for foreign minors and specific ages/age groups)
- The means of record keeping by the police and within the juvenile justice system differ and/or do not allow for disaggregation (e.g., the data is for a broad age category that includes adults)
- Differences in the countries' judicial systems mean that available data relate to different points in the judicial process (the judicial process itself is often quite different)
- Legal definitions and categorisations differ (e.g., the age of legal responsibility; definitions for specific crimes)
- Aggregation of local data can be problematic due to in-country differences in record-keeping

As these issues demonstrate, the collection of national and comparative data on foreign minors in Finland, Germany and Italy proved quite difficult. This was largely due to a lack of agreement between the various justice systems and data-collection institutes in the different countries. Each country has its own system, definitions and means of collecting data and each country encountered difficulties in finding data that accurately describes the presence of immigrants and particularly of immigrant minors in the country as a whole. Data are not always available in the manner desired, if they are available at all. This is especially true in relation to foreigners who may not be accurately included in official statistics (e.g., illegal migrants will not be included in census counts) or the existing means of data collection do not distinguish between individuals in a way that gives researchers the necessary information (e.g., individuals are only identified as citizens or non-citizens). It proved particularly difficult to gather data on criminal offending and the treatment of youth within the juvenile justice system due to differences within each system (e.g., the age of legal responsibility is not the same in all three countries). Each country created estimates for the necessary variables, but without reliable data on the population as a whole it is difficult to make meaningful statements about the population within the justice system. This problem exists on the national level and increases in the country comparisons due to the need for further estimates and comparisons of justice systems that record statistics at different stages with varying definitions.

Defining target groups proved to be another problem. While in legal terms the partners were able to agree that a "foreigner" is someone who does not have citizenship in the country where they reside, in social terms this label is much more difficult to describe and to ascribe. Each country has a different social concept (and therefore different definitions) of who is "foreign", who is an "immigrant", an ethnic minority, and it was difficult to agree upon one term that could represent the wide group of people we intended to study. For this reason, the term "foreigner" was agreed upon since it has a clear legal definition but can also imply a broader range of people who are viewed as

outsiders in some way or feel like outsiders. Nonetheless, in the reports produced by each country a wider variety of terms were used in order to convey the varied reality that these young people experience and the different legislative contexts in each country. For example, in Germany, *Aussiedler*<sup>4</sup> are not legally considered to be “foreign” because they have German citizenship (and therefore do not appear in the quantitative data which is based only on citizenship) however, they do experience the hardships derived from the migratory experience in a country which is totally alien to them. Thus, it was decided that it was important to include them in the target group. While this provides a complex but rich picture of the situation in each country, it can also lead to misunderstanding or render comparisons more difficult.

Not only is it difficult for the researchers to agree upon the definition of a target group that suits the situation in each country but this definition must also in some way correspond to the data that is collected and made available by national statistics institutes and justice systems. In other words, it is important to recognize that data comparison is limited by the means by which data is conceptualized (i.e., by which means do you measure “foreign”), gathered (i.e., what data sources are used) and recorded (i.e., how specific is the data, is the data lumped in categories such as age groups). For instance, in Italy, the statistical data provided by the Ministry of Justice describes minors only in terms of nationality and occasionally in terms of “foreign”, “Italian” and “nomads” (without defining the category “nomad”). However, the qualitative research revealed that the unaccompanied minors appeared to have specific needs and problems and constitute a large percentage of those foreign minors who are in the Juvenile Penal Institutes. Another contrast between the two means of data collection is seen in Germany for the *Aussiedler* who were included in the interviews and focus groups but fall in the citizen category in the quantitative data. A similar issue arose in Finland where many Roma youth have Finnish citizenship (therefore they are not in the statistics for foreigners) yet their membership struggles are comparable to those of foreign youth. The Roma were therefore included in the target group and, consequentially, in the interviews. As a result of these discrepancies in the target group, the “foreigners” included in the quantitative and qualitative data often do not completely overlap. Age issues are also present in all three countries both in terms of the age of criminal responsibility (which is 14 in Italy and Germany and 15 in Finland) and the means by which data is categorized (i.e., aggregation for age groups).

### ***Quantitative Country Findings***

Through the comparison of the three national quantitative reports, some interesting similarities and differences between the three countries emerged, from which we drew some basic conclusions<sup>5</sup>:

- Foreign minors are more likely to be accused of a crime and placed in prison in Finland, Germany and Italy than their native counterparts who often benefit from alternative sanctions.
- In terms of offences known by the police, property and “other” offences are common among all minors, though this is especially true for foreign minors in Italy. Violent offences, while perhaps more prevalent in Finland and Germany amongst foreign minors, remain a relatively small proportion of the offences committed by these minors.

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<sup>4</sup> *Aussiedler* are individuals with German heritage who have returned to Germany from Eastern Europe or Russia. Since Germany’s citizenship laws are largely based on “blood”, these individuals are granted Germany citizenship once they immigrate to Germany.

<sup>5</sup> Note that for the quantitative data, “foreign minors” refers only to minors who do not have the citizenship of the country where they are residing. The justice system statistics collected in the three countries were available and comparable only by using this legal definition of “foreign” and “non-foreign”.



- For all groups, except foreign minors in Italy, the rate of imprisonment reflects the rate at which minors are accused of or charged with a crime. However, one cannot always conclude that the higher rate of imprisonment for foreign minors is attributable to more serious offending. This is especially true in Italy where foreign minors have the highest rate of imprisonment, but lowest involvement in violent crime.

Thus, despite the inherent problems not only in comparing data from different countries, but also in addressing issues related to immigrants or foreigners, one can conclude that real differences do exist between foreign and native minors. While the reasons for these differences, especially in terms of the offences with which minors are charged or accused, are far from clear, it is evident that one cannot assume all of this difference is attributable to a higher rate of offending among foreign minors. This difference may be the result of any number of reasons beginning with the possibility that individuals are more inclined to report crimes committed by foreigners. Furthermore, police may be more likely to stop and ultimately arrest or detain foreign minors. Similarly, it is difficult to draw conclusions regarding the types of offences that foreign minors commit relative to their native peers. The potential exists for bias against foreign minors, albeit not necessarily explicit or intentional, at every step of the judicial process. What is clear from the data is that foreign minors in all three countries are more likely to come into contact with the juvenile justice system. The discussion of the qualitative findings that follows takes a look at the life conditions of foreign offenders that may contribute to offending as well as increases their risk of justice system involvement where they are potentially subject to discrimination.

### *Qualitative country findings*

The qualitative findings are primarily based on interviews with imprisoned minors<sup>6</sup>. This means that they reflect a subset of the minors included in the “foreign” category within the quantitative analyses. Findings from the qualitative and quantitative research should be seen as complimentary, but they do not necessarily speak about the same groups of minors, nor categorize them in the same fashion (e.g., Roma who are Finnish citizens were included in the qualitative interviews, but not considered “foreign” in the quantitative data due to the way statistics are kept). Bearing this in mind, there are a few central issues that emerged in all three countries within the qualitative research: the minors’ family background; language skills; educational background; recreational and social activities; policies and practices for managing diversity; and the minors’ future expectations.

#### *Family Background*

Substantial inter-country differences emerge in regards to the minors’ family background. These differences, in turn, mirror the typologies of foreign minors residing in each country. For instance, in Germany most of the first-generation minors interviewed live in emotionally positive environments with good family relations, but their parents are underemployed or unemployed despite being highly skilled workers and having held high employment positions in their host countries<sup>7</sup>. These children share their parents’ frustration as well as those created by the their own social environment. The majority of the minors interviewed in Italy and Finland also describe frustration, but this frustration is due to a complex family background. In Italy, the family situation generally involves very poor economic conditions, parents with low level of education who are separated, and, frequently, an absent father who maintains almost no contact with his children. In Finland, the most appropriate expression to depict the interviewees’ family background is that of a

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<sup>6</sup> In Italy and Germany all of the interviews were in penal institutes. In Finland 12 out of 20 interviews were in a correctional institute.

<sup>7</sup> Note that this is based on the minors’ reports and has not been corroborated.

“transnational family”. Extended family members are located in different countries, inside and outside Europe, and family relations are continuously re-constructed across time and space, which creates a feeling of existential and economic insecurity.

The great variety of family backgrounds among deviant foreign minors seems to indicate that, although family undoubtedly plays an important role in the youths’ life course, it is not sufficient to explain why some minors end up on a deviant path. This is also confirmed by the young people’s own interpretations of their lives. Contrary to what some might think, the minors interviewed usually did not ascribe their crimes to their family relations. Other factors intervene as well in determining the quality of the emotional and social environment in which young people grow up: education, peers, encounters with institutions, etc. However, when referring to foreign or immigrant minors, it is clear that the migratory experience can be a key factor in creating difficulties for the families and the minors themselves; these difficulties appear to lead to the frustration and marginalisation of the children, which in turn can contribute to criminality. This seems to be true both for minors who were involved in the decision to immigrate and for those who were not.

### *Language Skills and Barriers*

Language skills and barriers proved to be one of the most important problems for first generation youths and one of the main obstacles to their integration. In Germany and Italy, minors are often placed below their actual level/age-group because of their language limitations. In the prisons in Italy the classes are often separated into one class for “foreigners” (the majority of the juvenile prison population), and one class for Italians as a means of dealing with language barriers. This leads to a feeling of humiliation and frustration causing some foreign minors to interrupt their education, becoming “drop-outs”, which increases the risk of marginalisation and deviancy. Generally speaking, it could be said that in all three countries, even youth with good educational backgrounds in their country of origin were unhappy about their insertion in the educational system in the host country and that this discontent was largely due to language problems.<sup>8</sup> In addition to inhibiting their insertion and success in the education system, poor language skills also impede their understanding of the justice system (including their trial and the period when they serve their sentences, if convicted).

### *Recreational and Social Needs*

Policies and programs devoted to meeting the recreational and social needs of young people are insufficient. They either have some deficiencies or do not to meet the specific needs of foreign/immigrant youth. The lack of public leisure activities, youth clubs and sports activities, as well as professional training opportunities, is perceived by both young foreigners and practitioners as contributing to marginalization and “ghettoisation” because the foreign youth feel that their basic socialization needs are denied.

### *Post-release Policies*

In theory the juvenile justice systems seeks to provide sanctions that minimize the harm done to the child while maximizing rehabilitation and ultimately reducing recidivism. Practice, however, seldom reflects theory or written policy. The reality of the situation, as seen in the three

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<sup>8</sup> This problem was most pronounced amongst “unaccompanied minors”, who constitute a large presence in the Italian justice systems, and almost half of those minors we interviewed in Italy were unaccompanied. These minors often had very little or no school experience before coming to the host country. Some of them are illiterate; a situation that is difficult to improve using existing educational policies and demands *ad-hoc* policies.

qualitative reports, is that the imprisonment of minors is viewed primarily as a means of *punishment* and not enough emphasis is put on reintegration after release. This lack of focus on rehabilitation and reintegration is connected to three factors: 1) an inadequate supply of activities focused on rehabilitation within the prison; 2) administrative decisions that result in the constant transfer of foreign minors, especially unaccompanied minors, from one facility to another; and 3) a paucity of post-release programs that can help minors make the transition from prison to the local community. These issues affect all incarcerated minors, but have a disproportionate impact on foreign minors due to the high rate of imprisonment for these minors and the overall precariousness of their situation. These minors often do not have the legal representation or family ties to ensure that they receive the best treatment available. This is especially relevant in terms of transfers from one institution to another. This is not only disruptive from a psychological perspective, but makes it difficult, if not impossible, for staff to insert minors in a program (e.g., educational, vocational). The end result, while perhaps not overtly discriminatory, is nonetheless a form of discrimination. Foreign minors, who are especially vulnerable and in need of a stable environment, are often denied this due to the administrative needs of the system (i.e., allocation of prison space). The law may be equal for all, but the effect is unequal and detrimental to development and integration of foreign minors. In this case the use of imprisonment and failure to provide effective treatment and educational programs can harm the youth and consequently the larger community.

### *Diversity Management within the Juvenile Justice System*

The most striking finding regarding diversity management is that diversity does not appear to be specifically addressed within the juvenile justice system in any of the three countries. It also appears that agencies often do not share information about effective practices<sup>9</sup>. The lack of specific norms inside the justice system concerning the presence of foreigners represents the major obstacle to diversity management at every stage of the criminal process. As a result, foreign minors often pay the price of this deficiency, encountering difficulties in accessing the same measures (e.g., alternative detention, educational/re-integration programs) as non-foreign minors do. Below are some examples of how the lack of a specific policy that addresses diversity can impact foreign/immigrant youth and the juvenile justice system itself:

- Foreign/immigrant youth in prison get moved from institution to institution more frequently than native youth, thus undermining all efforts of educational/rehabilitative programs for them. Besides, the continuous transfers increase the feeling of insecurity of the youth. This situation is found true with regards to residential institutions in Finland, and to juvenile jails in Italy, where unaccompanied minors are moved with particular frequency since it is assumed that they have no family relations in the territory
- Language barrier is not always considered and language classes are not always provided in jail.
- Resources allocated to intercultural mediation are insufficient.
- Generally speaking, there seems to be a drastic gap between legislation and the practical responses given by those working “in the field”. Formally, there is an absence of legislation and policy for diversity management and therefore the practitioners make up solutions “on the spot” that can be successful but even when they are so, do not serve as lessons learned on a national level, given the lack of a standardized system for exchange of information.

Nevertheless, the way in which such *institutional discrimination* takes shape, varies from country to country. In Finland, as far as minors are concerned, there exists a clear division of responsibilities between the social welfare sector and the justice sector. Minors are seen as minors

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<sup>9</sup> See the InTO project report on good practices.

first and diversity is dealt with secondly, if at all. Historically, the aim of this approach has been to develop the child welfare system and solve the problematic behaviour of children outside the court. For instance, both residential institutions for young offenders, the children's homes and the reform schools are under the jurisdiction of the child welfare system. One of the most crucial aspects of this system is that young people cease being customers of child protection with the coming of age (18 years). As the experts interviewed pointed out, interrupting the supporting measures in many cases means leaving young people adrift and more at risk for deviancy.

In Italy, the growing number of second generation minors in Italian society requires innovative policies, capable of adapting to the social changes taking place. Such policies are needed outside as well as inside the justice system. In addition, the high number of unaccompanied minors "detected" by the juvenile justice system means that it is necessary to develop appropriate policies to deal with this phenomenon.

Finally, in Germany, the juvenile penal law is based on the concept of educating young offenders as an alternative to punishment for committing crimes. Although by law detention in juvenile prison becomes necessary only if the crime committed causes injury or if the crime is so severe that it necessitates arrest, the experts participating in the focus groups highlighted the need for "an intermediate tool of punishment between arrest and prison". It is interesting to point out that in Germany there is still no specific law regulating juvenile prisons.

### *Expectations for the Future*

With regards to minors' expectations for the future, the desires expressed by the interviewees in the three countries show some similarities. While some focus on a future with a job, a spouse and children, others focus on avoiding a criminal life and yet others on returning to their country of origin. Whatever the case, most do not include criminality in the description of their future (with the exception of the Roma people).

This is a potentially important indicator for integration in that individuals' expectations and hopes for the future (i.e., returning to their country of origin or staying in the host country) potentially has a significant impact on their behaviour as well as the extent to which the host country makes efforts to integrate them. Germany is a clear example of how viewing immigrants as temporary (guest workers) meant that they were, apart from employment, largely excluded from German life. Neither the immigrants, nor the Germans took steps to change this until the situation changed and the immigrants began viewing Germany as their new home, rather than as a place of employment.

### **Policy Recommendations**

The experiences of this project coupled with the data gathered suggest a number of policy recommendations. These recommendations fall into two general categories: 1) recommendations for the treatment of youth and 2) data collection and comparability. Some of these recommendations, which relate to the study of marginalisation, delinquency and integration, are outlined below.

#### ***Recommendations regarding the treatment of the youth***

It is clear that while the laws regulating the justice systems in the different countries may be created in order to provide for the equal treatment of minors (or “special treatment” in the case of Germany), whether foreign or not, in practice these two groups experience differential treatment, including the delivery of lower quality services to foreign minors. Therefore this treatment could be considered a form of indirect discrimination. It is also clear from our research that the justice systems in the three countries studied have not paid enough attention to the needs of foreign minors. In order to rectify this situation we have developed a few recommendations for policy makers and for people working in the justice systems with foreign minors.

- Greater attention needs to be paid to the impact of the system on foreign minors and their changing needs.
- Develop a comprehensive approach to integration that addresses not only clear needs (e.g., socio-economic status, language), but also emotional integration. This refers to the person’s state of being, or sense of self, and social relations.
- Education is key. The provision of higher levels of education and language skills by teachers who have a good understanding of the minors’ needs, their diversity and diverse modes of expressing themselves can help prevent marginalisation and promote integration, thereby avoiding delinquency<sup>10</sup>.
- Greater focus should be placed on including offenders’ families, when possible, in treatment and in developing means for greater participation by family members in the trial process and in programmes in which the youth participates.
- The idea of re-socialisation within the penal law should be preserved and enhanced. Even the experience in jail should be seen with the perspective of rehabilitation and of enhancing the minors’ integration into the society, more than as a punishment solely.
- More emphasis should be put on post-release services and re-integration. Minors may encounter a number of difficulties post-release such as loneliness and problems meeting basic needs (i.e., food, shelter) in the absence of support networks, which can increase the risk of recidivism (i.e., the minors steal or rob in order to acquire food or other basic needs).
- Special attention needs to be paid to the potential for mental illness amongst foreign minors, especially those who have had more traumatic experiences (i.e., unaccompanied minors and refugees). The experience of imprisonment may also place minors under psychological stress (e.g., the practice of moving minors from one institution to another that is common in Finland and Italy) that could contribute to depression or other mental health problems. This is an area that is in need of further research.<sup>11</sup>
- There is a great potential for the media to present immigrants in a negative light, focusing primarily on crime committed by immigrants or other social problems, which can contribute to the marginalisation of foreign minors by increasing the link between these minors and criminality in the public discourse. Efforts should be made to encourage the responsible and balanced coverage of issues related to foreigners, including the presentation of research results.

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<sup>10</sup> Practitioners stressed the importance of education during the interviews (see Qualitative Report). This supports previous research that links education to delinquency as a protective factor (i.e., higher education can help reduce delinquency (e.g., Yoshikawa, 1994)), a risk factor (i.e., adolescents with low educational achievement are more involved in crime (Maguin and Loeber, 1996)) and as a result of delinquency (i.e., delinquency leads to lower educational achievement (Tanner, Davies and O’Grady, 1999)).

<sup>11</sup> In Finland there is an increasing trend to interpret youth’s social problems from a “medico-psychological” perspective, which sees the offending as a medical or psychological, rather than criminal, problem. This is important in that problematic behaviours are treated in a different manner. However, it is distinct from the very real potential for juvenile offenders to have mental health problems. The commission of a crime is not necessarily related to a mental health problem, but the youth have unique needs that nonetheless require attention.

### ***Recommendation regarding data comparability***

- The creation of an *ad hoc* working group including several pilot countries to define and create a means for comparable collection of data on foreign minors and the criminal justice system both as victims *and* offenders. The *ad hoc* working group could (a) collect information about existing survey research on immigrant youth crime, (b) evaluate the possibility of creating an international comparative database based on existing studies, and (c) assess the feasibility of a new and standardised survey on immigrant youth as victims and offenders. It is crucial to recognise that the criminal activity of some of these minors may in fact represent *victimisation* (e.g., forced prostitution, smuggling drugs to gain entry into the country).
- The data collection system on created by this working group should be made available to policy makers.
- Another *ad hoc* working group could also be created in a number of countries to develop and test synthetic indicators for measuring “marginalisation” among foreign minors and minors of foreign origin. We have begun to develop a proposal for this concept below.

### **Future Research and Synthetic Indicators**

Findings from InTO clearly demonstrate that foreign minors are at greater risk of involvement in the criminal justice system. As initially envisioned, measuring this risk is one means of measuring marginalisation; however, it only tells part of the story. As was all too clearly demonstrated by the recent riots in Paris, a sense of marginalisation and ostracism by the dominant culture is possible for immigrant minors even if they are second- or third-generation. Thus, it is essential to try to understand the factors that contribute to this sense of alienation from the dominant culture and what measures can be taken to improve conditions. The first step in this process is understanding the extent of marginalisation among foreign minors, which requires a broad view of what marginalisation entails. This means including factors that can contribute to marginalisation amongst youth in general as well as factors that are specific to immigrants or the children of immigrants. To this end we suggest the following set of indicators to measure marginalisation along five dimensions<sup>12</sup>: (1) immigration history; (2) socio-educational development; (3) family/living situation; (4) sense of belonging/identity; and (5) criminal involvement. These dimensions include the following items:

#### **Immigration History**

- Country(ies) of origin
  - Minor
  - Parent(s)
- One or both parents immigrated
- One or both grandparents immigrated
- Minor immigrated
  - age of (im)migration
  - mode of immigration: alone, with parent(s), criminal networks/smugglers, other
  - length of stay in host country
- Victimized during (im)migration (e.g., subject to abuse in-transit; used to transport drugs)

#### **Socio-educational Development**

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<sup>12</sup> The specific means for measuring each of these variables needs further development. Potentially one can use a likert scale for variables dealing with relationships (and other variables that are not easily dichotomized) and dichotomies for the other variables.

- Enrolled in school
  - frequency of school attendance
  - age appropriate grade level (year difference, i.e., 17 yr old place in grade 9)
  - academic performance
- Language proficiency
- Peer groups (foreign only, mainly foreign, mixed, mainly non-foreign, non-foreign only)
- Involved in organized recreational activities (e.g., local youth club, sports)
- Religious background/value system

### **Family/Living Situation**

- lives with: parent(s); other family member(s); other adult; alone; ward of the state; homeless
- relationship with parent(s) (describe for each parent)
- relationship between parents/adult caretakers
- relationship with siblings
- overall family environment
- parent(s) language proficiency (if present)
- siblings(s) language proficiency (if present)
- family income
- source of family income: legally employed, illegally employed, illegal activities (drugs, etc.)
- lives in: immigrant area, mixed area, largely native neighbourhood

### **Youth's Sense of Belonging and Identification**

- the host country is "home"
- the country of origin, or other country, is "home"
- wants to stay in host country
- feels accepted in host country by: peers; local community; larger society
- self-identity (i.e., Italian, Moroccan, Algerian, dual/multiple identities)

### **Criminal Involvement/Victimization**

- ever committed a crime
- currently involved in crime
- victimized as a result of (im)migration (e.g., forced into prostitution in host country)
- ever arrested
- ever convicted
- ever imprisoned
- family members involved in crime
- family members spent time in jail/prison
- has delinquent peers/peer groups

The wide scope of these variables is necessary to understand the complexity of factors that can contribute to marginalisation. The research carried out for INTO made it clear that factors such as employment do not adequately capture the extent to which individuals are a part of the larger culture. In fact, internal factors (i.e., the level of emotional integration as measured by sense of belonging) may be more important than external factors (e.g., language and employment) in determining the *feeling* of marginalisation. If one uses the Paris riots as an example, then this feeling may be more important than more traditional measures. Clearly, being born and raised in a

country does not preclude the possibility that the individual feels ostracized by or excluded from the dominant culture. Thus, it is essential to understand marginalisation as a multi-faceted concept in trying to determine the factors that contribute to it.

### ***Suggestions for Further Indicator Development and Data Collection***

What has been presented here is an initial attempt to outline a means of measuring marginalisation amongst foreign minors and minors of foreign origin. These are concepts that need further operationalisation in order to develop a valid index, or synthetic indicator, of marginalisation. This is especially difficult in that there is no simple way to assess that one is actually measuring marginalisation since it is not a concrete concept. This lack of concreteness is of course what necessitates the development of an indicator, but it also means that extreme caution needs to be exercised in creating the indicator. A thorough theoretical base and definition of marginalisation is necessary to ensure that each variable along a given dimension can be said to influence marginalisation.

The collection of this data could be done through a large-scale pilot project with in-depth interviews or surveys throughout Europe. There are a number of difficulties associated with such an endeavour, beginning with the selection of the minors since traditional means of surveying minors (i.e., samples of students in public schools) would not yield a representative sample. However, even this means of sampling could yield information about a specific group of foreign minors, although they are arguably among those who are less at risk.

### **Conclusion**

The shifting demographics and immigration patterns in Europe coupled with social unrest (i.e., the riots in Paris) clearly indicate the need to understand integration and marginalisation among foreign minors and minors of foreign origin. Studying the criminal involvement of these minors provides useful information, but does not provide a comprehensive picture. Given the complexity and multiple dimensions of marginalisation a synthetic indicator, or set of indicators (one for each dimension), may provide much clearer information about the real situation. It is quite possible that many of these minors are apparently integrated (i.e., attend school, speak the language, have diverse peer groups), but still feel marginalised or alienated. The failure to address this distinction can result in wasted efforts and resources and may exacerbate, rather than alleviate, the situation. Misguided efforts can potentially contribute to the foreign minors' perception that the larger culture neither understands, nor wants to understand the reality of their situation. Improving our understanding of marginalisation can help inform measures aimed at reducing discrimination and promoting integration, while also altering this perception—a perception that may be at the heart of effective integration. For, as with so many things, perception is often more important than reality.



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