



Conflict Resolution, Mediation and
Restorative Justice and the Policing of
Ethnic Minorities in Germany, Austria and Hungary

POLICY BRIEF

Restorative Justice – meeting needs best on the demand side and the supply side of minority policing

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Summary: Policing minorities is a topic of high importance in multicultural societies. Especially the police as state representatives have to adapt to new ways of minority policing. As policing and minority policing in particular are associated with conflicts, new ways of conflict management, conflict prevention, and conflict resolution need to be established. In the following, the current supply side and demand side of minority policing are presented as well as possible resolution approaches with regard to Restorative Justice values.

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Impacts of migration and interculturalism on institutions

Migration has been a central driver of historical events all over the world. Within the past decades, mobility in general, and particularly within Europe, became easier. Also nowadays, employers encourage foreign workforce to apply for jobs for example, because this can be realized by our current degree of mobility. As mobility for individuals depicts a crucial factor for changing economic or political circumstances they live in, it finally enables people to migrate. However, although in the best case migration can have the meaning of improving living conditions for individuals as well as for organizations or societies, it is nonetheless related to big individual, organizational, and societal challenges. Especially in the case of migrating from one country to another, efforts for coping with culture shocks, as well as for bridging language differences, different understandings of law and order, and different processes of dealing with frictions must be taken into account.

Nowadays, immigration into states of the European Union cannot be thought without encounters with public institutions. Based on the assumption that cultures form their institutions, challenges of typical intercultural frictions must also be expected for migrants' contact with public institutions. Particularly in cases, where migrants already have experiences with the same kind of institution in their home countries, they logically tend to attribute their expectations in the positive as well as in the negative sense to the institution in the new state. This applies also to the police of course, which can be seen as representatives of a state's policy and values. However, frictions occur here as well. These do not solely result from wrong expectations or misbehaviour on the side of the migrants, but sometimes

also from wrong expectations or misconduct of the police. The 2012-report of the Fundamental Rights Agency³ points out that 54% of the interviewed Roma in Europe were dissatisfied by the way how the police dealt with their matters. In the same report 24% of the Turks confirmed that their negative attitudes against the police deterred them from reporting offences to the police whereas 24% of the Sub-Saharan Africans confirmed their general distrust in police officers. Indeed, the police across Europe are required to react to frictions resulting from intercultural encounters in relation with migration and ethnic minorities.

Migration and corresponding intercultural differences are naturally accompanied by frictions between migrants and public institutions in the country of immigration.

How the police are influenced - Current status of minority policing in Germany, Austria, and Hungary

Police within the European Union already engage in activities to improve the quality of encounters with migrants or ethnic minorities stemming from migration processes. However, as their main groups of migrants and ethnic minorities are very specific, also their approaches of minority policing vary to a broad extent. Within the countries of the COREPOL project, several aspects of minority policing are to be found as described in the following.

³ EU-MIDIS: Minorities as victims of crime, <http://fra.europa.eu/sites/default/files/fra-2012-eu-midis-dif6_0.pdf>

- *Austria*

In Austria, one of the important ethnic minority populations are Sub-Saharan Africans. Most of them came to Austria within the last 70 years mostly as students, refugees or as asylum seekers. Although most of them are well-educated, their certificates are often not valid in Austria and their access to the Austrian labour market appears to be difficult. Compared to German-Turks or Hungarian Roma, Sub-Saharan Africans do not tend to form communities, but rather live as individuals or in families.

Currently, minority policing in Austria takes place on a rather abstract level and not really as a specific, well-defined program. Moreover, the first steps in Austria towards minority policing can be considered as fairly recent.

At the most abstract level, in 2008 the project "Polizei.Macht.Menschenrechte" ("Police.Power.Human Rights") was founded as an initiative to emphasize and reflect the meaning of human rights to an organization where daily work routines consists of encroaching on as well as protecting citizens' human rights.

Police language training can be understood as minority policing also on a rather general level: Each police officer had to attend English-classes at least once in his/her career.

On the least abstract level one finds the unit "Minority Contact" and its collaboration with the association "Fair & Sensibel". As part of the Vienna police public relations office, the unit "minority contact" focusses on peaceful 'co-existence' of the Austrian police and ethnic minority members living in Austria. The "minority contacts" unit was founded in 2008. Eight years earlier, in the year 2000 and in the wake of the anti-African sentiment within parts of the Austrian

police and population, the Austrian police initiated a project, which aimed towards a normalization of the relationship between police and Africans. This project titled "Police and Africans" has a participation of law enforcement personnel, African community organizations as well as NGOs. Today the project is institutionalized through the foundation of a private organization named "Fair & Sensibel - Polizei und Afrikanerinnen"⁴ ("Fair & Sensitive – Police and Africans"), linked to the police department of Vienna and directly connected to the chief of police. Primary task of "Fair & Sensibel" is conflict management of police-African minority conflicts across Austria. They achieve their goal via mediation as well as via events where positive contact establishment is supported.

- *Germany*

In Germany, the biggest ethnic minority are Turks. As most of them came to Germany as guest-workers between the 1960s and the 1980s, they and their families live in Germany in the first, second, third, or even fourth generation. Although one could assume that they are now integrated into German mainstream society, current statistics show that this is still a challenge as e.g., out of several reasons over 65% did not finish a professional education.

Minority policing in Germany is characterized by various attempts of getting into contact with German-Turks by the German police like

- bilateral invitations and participation at festivities,

⁴ Association "Fair & Sensibel - Polizei und Afrikanerinnen", <<http://www.fairundsensibel.at/>>

- providing special trained and well-known police contact persons for quarters, schools, mosque associations, and youth centres
- showing presence at meetings or at festivities
- being active at round-table events, migration advisory board, or quarter management.

Due to contact establishment, the police are able to reach the Turkish community via Turkish leaders (e.g. Imams). The police also initiate prevention events where they get into contact with German-Turks like holding lectures about traffic safety, juvenile delinquency, and domestic violence at mosques or about traffic safety, media competence at schools. Moreover, police officers receive basic and advanced training on intercultural skills. Additionally, a comparably high amount of police officers with Turkish background supports their non-migrant colleagues on the streets and show up as important contact points for Turkish-speaking citizens. However, all these activities vary in their extent and procedures between federal states, rural areas and big cities.

- *Hungary*

In Hungary, the biggest ethnic minority are the Roma. Although they settled down centuries ago, they did not reach the same socio-economic status as the non-Roma Hungarians. This shows up in poor education, poor housing conditions, high levels of unemployment, but also in discrimination by the police.

Minority policing in Hungary is characterized by several decentralized attempts of creating a peaceful coexistence with the Roma minority and the Hungarian police.

First, there is a professional line called “szakvonal”, consisting of a group of experts against hate crime including hate crime against Roma.

Second, there is a nation-wide directive by the Hungarian government about the involvement of the Roma in the police, which cannot be considered as binding law, but as a motivation and call to strengthen Roma participation in Hungarian policing.

Third, there is a police-Roma association aiming at contact establishment and trust-building between the Roma and the Hungarian police.

Fourth, there also exist several initiatives on a local level fostering Roma’s and police’s respectful encounters and mutual perspective-taking.

Minority policing in Europe reveals very diverse approaches depending in their quality and quantity of implementation on historical events, national policies, police management’s awareness of respective problems, activities of local initiatives, and individual openness of each police officer.

Which problems remain

Although one can find good examples and best practice cases for minority policing in Austria, Germany, and Hungary, it becomes obvious, that these efforts in sum cannot be considered as sufficient reaction on police-minority frictions. The remaining problems are:

Problem no. 1: Lack of in-depth political support of minority policing

While governments publish directives regarding integration of minorities, there remains a need of structural in-depth practical outcomes of such directives in the field of minority policing e.g. via special programs. Currently, most of the existing programs do not have a broad scope and are initiated on the local, but not on the national level. Thus, their scope is restricted, e.g. to a certain town or federal state, and also connected to the initiating individuals, e.g., an innovative head of police or a mayor. It needs to be recognized, that existing programs are good, but insufficient, as negative images, stereotyping, disrespect, preference of natives during official acts, perception of ethnic profiling, racist utterances, and use of non-legitimate physical violence remain reasons for complaints on the individual level during police-minority interactions.

Problem no. 2: Lack of access enabling police-minority relations

There is a lack of mutual access of police and ethnic minority members to each other's reality of living. Whereas ethnic minority members often do not know about police tasks, obligations, restrictions and legal conditions; police officers often do not know, what it means to belong to an ethnic minority, and the cultural, socio-

economic, and psychological implications of such a status. This access in many cases is restricted by communication difficulties due to a lack of language skills on the side of the minority as well as on the side of the police. Thus, contact and access is mainly reduced to negatively connoted occasions where migrants are either in the role of victim or offender. The under-representation of minorities (esp. in Austria and Hungary) in the police also contributes to this situation. Although there are remarkable attempts at the side of the police, little initiative aiming at contact establishment at the side of the ethnic minority can be observed. This may be the case because they are not structured as organizations and because they understand the police as institutions that one only addresses in exceptional circumstances.

Problem no. 3: Lack of police opportunities to constructively manage conflicts with ethnic minority members

If frictions between ethnic minority members and the police occur, both conflicting parties are restricted in their opportunities to start a conflict resolution process. At the side of the ethnic minority members, most of them face

- psychological obstacles (e.g., fear of institutions, fear of discrimination and re-victimization),
- informational obstacles (e.g., no knowledge of police work and legal bases of policing; no information about complaint management possibilities and of own rights; lack of knowledge about the offending police officer),
- as well as procedural obstacles (e.g., expecting counter-charges or esprit de corps),

that hinder them to at least indicate and complain about a police officers' misconduct. At the side of most police institutions, obstacles of a rather systemic nature occur, if complaints are announced. Such structural obstacles appear as:

- Legally fixed social role of the police

Police as representatives of the state hold the role of the executive force. They have the immanent mandate to guarantee that the state is being taken seriously. Thus they have also the power and the right to infringe human rights under certain conditions. Executing national law, fighting crime, and establishing social order they also hold the role of those who stand on the correct side of the law. This implies a black-and-white logic: They cannot do anything wrong, because if someone did, he/she consequently would stand against the law and become target of criminal prosecution. These organizational conditions logically are closely connected to an organizational culture of masculinity and error-avoidance. Apologizing, admitting mistakes, learning from faults and reparation of harm are rather unlikely incidents in such cultures.

- Legal boundaries of reparation of harm for the police

If incidents occur where citizens complain against the police, national police laws (except the Austrian) do not include the possibility to solve conflicts on an informal level. Although research shows, that many complaints of citizens do not refer to misconduct

which could be prosecuted by criminal law, but to perceptions of disrespect, constructive conflict resolution e.g., via mediation, is not intended by the law.

Aside from current approaches of minority policing, it must be stated that the basic necessity of police-minority contact establishment remains underdeveloped and that non adversarial police-minority conflict resolution mechanisms are missing.

Restorative Justice as a way of conflict management in minority policing

The majority of cases of police-minority conflicts and subsequent complaints are not related to criminal law. However, if they remain unsolved, they boost dissatisfaction negative images of each other, and avoidance of contact for both sides of the conflicting parties.

- *What is Restorative Justice?*

Restorative justice is a way of dealing with conflicts by focussing on victims' and offenders' needs in order to repair the harm. Instead of punishing the offender, the originally positive relationship between the victim, the offender, as well as all others who are indirectly involved in the conflict can be restored.

- *How is Restorative Justice accomplished?*

In most European countries, Restorative Justice is accomplished by mediation - at least one meeting between the conflicting parties and a neutral mediator. Sometimes also supporting third parties or indirectly involved others participate in these meetings. The mediator moderates the conversation, and he takes that each participant has the chance to explain his/her perspective of the conflict to enable mutual understanding. Furthermore, the ways by which the harm can be repaired and how the relationship can be restored are decided by the conflicting parties. Sometimes, conflicts are resolved by mere apology.

- *Why can Restorative Justice be useful in solving police-minority conflicts?*

Using Restorative Justice in addressing police-minority conflicts is a promising approach for minority policing, because ...

1. ... it can facilitate contact between ethnic minority members and the police.
2. ... it can foster mutual respect and understanding between ethnic minority members and the police.
3. ... conflicts between ethnic minorities and the police could be solved instead of being delayed or compounded.

Indeed, the minorities under study (Roma, Sub-Saharan Africans, Turks) are due to their cultural background even accustomed to Restorative Justice practices.

Restorative Justice can be a suitable approach for addressing conflicts between ethnic minorities and the police in a constructive manner.

Directions for a solution

Suggestions to address these issues of minority policing include:

1. Finding solutions to strengthen a police culture where a constructive handling of errors is emphasized.
2. Creating more opportunities for international police cooperation to foster knowledge exchange about best practice of minority policing.
3. Advancing the intercultural education on the part of the police as well as on the part of the ethnic minorities. Programs, where this is realized in ways of bringing both parties together on one table are advisable as knowledge about the counterparts' social situations can be gained.
4. Enabling ethnic minority to participate in democracy by calling for projects and supporting projects of minority-police contact establishment.
5. Creating projects and events, where police and ethnic minorities can get into contact in a positive and unencumbered situation apart from aspects of police work, where the focus is on victims and offenders.
6. Strengthening local communities by community policing to avoid anonymity, lack of participation as well as diffusion of responsibilities in conflicting situations for ethnic minority members and police officers.

7. Enhancing police cooperation with NGOs on an international level (e.g., Fundamental Rights Agency), national level (e.g., Ombudsman's Office) as well as on a local level (e.g., social projects) to exchange knowledge about minorities and effects of minority policing and for developing best practice programs.
8. Promoting the understanding and acceptance of human rights within police work in police education. Emphasizing topics with importance to conflict resolution like communication, conflict management, Restorative Justice, mediation, and de-escalation.
9. Strengthening current national minority policing approaches by enhancing police diversity via an increased employment of police officers with migrant background.

Conclusion

Restorative Justice as conflict resolution approach for conflicts related to the policing of minorities can contribute to a positive environment when attendant circumstances like need for contact establishment and intercultural competence are considered. As nation-specific conditions influence how and which of the proposed directions for solutions can be realized, international police cooperation is inevitable to learn about best practices of minority policing and associated conflict resolution processes. Hence, paths of less error, but more trial can be treaded.