

Incarcerated Foreign Minors in Italy: How to Treat them?

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Abstract: The aim of this study is to provide data regarding the treatment of foreign juveniles in the Italian justice system. The authors examined the records from juvenile detention centers and primary juvenile reception centers in Italy in order to gain a better understanding of how foreign minors are treated with respect to their Italian counterparts. Statistical analysis was then carried out and the results revealed many inequalities.

The authors believe that it is important to create secondary and tertiary prevention services in order to decrease the likelihood of recidivism, and to promote the minor's integration into the social fabric of their adopted country. Foreign minors are more frequently placed in jail than their Italian counterparts. The authors conclude that only through the development of a united partnership can a welcoming network be created: one that is able to pick up on the first signs of trouble that often confront foreign minors.

Keywords: Foreign minors, juvenile delinquency, incarceration, criminological treatment, identity construction.

According to Italian law, in order to charge a minor with a crime, he must be between the ages of 14 and 17 years (articles 18 and 19, Italian Penal Code). Current legislation is regulated by law 448/1998, and is also applicable to foreign minors who reside in Italy. The number of foreign residents in Italy, including minors, is continuously rising (these data were last updated in 2009) Graph **a**.

The population of detained foreigners in Italy is also on the rise Graph **b**.

Foreign minors often have problems integrating into Italian society. The two principal reasons for this is their young age, and their different cultural background. As a result, they tend to have fewer rights and less security with respect to their Italian counterparts. The aim of this study is to provide data regarding the treatment of foreign juveniles in the Italian justice system. The authors are of the mind that it is important to create secondary and tertiary prevention services in order to decrease the likelihood of recidivism, as well as to promote positive and appropriate integration of the minor into the social fabric of their adopted country.

The most common reason for which minors leave their homeland is the search for a new way of life (Melossi & Giovanetti, 2002). Persichella (1996) wrote

of "advance socialization", a term that refers to the expectations of well being that a foreigner might associate with a particular place. These mental images are often generated by the mass media, as well as by relatives and friends who have already emigrated. These youngsters are often disappointed upon their arrival in the new country, leaving them in a state of relative deprivation, frustration, and tension, which are significant risk factors for the commission of crimes (Bernstein & Crosby, 1980; Brown, 1995/1997; Greco *et al.*, 2009; Margari *et al.*, 2013).

The percentage of foreigners convicted of crimes in Italy has increased over the last decade when compared to the number of convicted Italians. This is true for all crime categories: production and dealing of illegal drugs; theft; robbery; receiving of stolen goods (fencing); contraband; rape; and homicide. There are many reasons for this phenomenon. Among them are the conditions in which these immigrants find themselves upon their arrival in Italy; how their previous expectations measure up to the reality of their new existence; how successfully they reintegrate with their families; their ability to enter into the work force; and the influence of both Italian and foreign organized crime groups (Barbagli, 1998; Coluccia, Ferretti e Lorenzi, 2011; Di Nicola, 2010; Russo, D'Arrigo, Delia and Rosi, 2010). Foreign minors are often recruited by criminal organizations, or by compatriots who aid them in becoming involved in criminal activity, especially prostitution and drug dealing.

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Graph a: The number of foreigners legally residing in Italy (including minors), is constantly on the rise.

Year	Foreign Residents	Total Residents	Percentage of Foreigners	Minors	Families with at Least 1 Foreigner	Families with a Foreigner as head of Household	Born in Italy	Percentage of Males
2005	2,670,514	58,751,711	4.5%	585,496				50.6%
2006	2,938,922	59,131,287	5.0%	665,625			398,205	50.1%
2007	3,432,651	59,619,290	5.8%	767,060	1,684,906	1,366,835	457,345	49.6%
2008	3,891,295	60,045,068	6.5%	862,453	1,870,285	1,524,909	518,700	49.2%
2009	4,235,059	60,340,328	7.0%	932,675	2,074,065	1,640,727	572,720	48.7%

Place of origin of foreigners legally residing in Italy by geographic area:

Place of Origin by Geographic area (2010)			
Place of Origin	Foreigners	% Males	Total %
European Union	1,334,818	42.5%	29.2%
Central and Eastern Europe	1,094,123	44.3%	23.9%
Other European Countries	12,524	44.4%	0.3%
Northern Africa	678,929	59.6%	14.9%
Central and Southern Africa	21,083	51.7%	0.5%
Western Africa	240,241	61.2%	5.3%
Eastern Africa	46,218	49.4%	1.0%
North America	18,199	44.7%	0.4%
Central and South America	354,186	37.3%	7.7%
Western Asia	31,874	50.5%	0.7%
Central and South Asia	368,332	62.0%	8.1%
East Asia	366,306	46.9%	8.0%
Oceania	2,642	39.7%	0.1%

(By Nationality)

Place	Country	Residents	% Males
1	Romania	968,576	45.4%
2	Albania	482,627	53.7%
3	Morocco	452,424	56.3%
4	People's Republic of China	209,934	51.6%

5	<u>Ukraine</u>	200,730	20.2%
6	<u>Philippines</u>	134,154	42.2%
7	<u>Moldavia</u>	130,948	32.8%
8	<u>India</u>	121,036	60.7%
9	<u>Poland</u>	109,017	28.8%
10	<u>Tunisia</u>	106,291	63.4%
11	<u>Peru</u>	98,603	39.9%
12	<u>Ecuador</u>	91,625	41.5%
13	<u>Egypt</u>	90,365	69.5%
14	<u>Macedonia</u>	89,900	56.0%
15	<u>Bangladesh</u>	82,451	67.5%
16	<u>Sri Lanka (ex Ceylon)</u>	81,094	55.5%
17	<u>Senegal</u>	80,989	75.6%
18	<u>Pakistan</u>	75,720	65.5%
19	<u>Nigeria</u>	53,613	45.8%
20	<u>Serbia</u>	52,954	53.9%

Source: (<http://www.comuni-italiani.it/statistiche/stranieri.html>) Population of resident foreigners in Italy as of December 31 for each year, with place of origin by continent, geographic area, and country; In Italy for work, study, or personal reasons (does not include illegal immigrants). Processed according to ISTAT data. Illegal immigrants in Italy in 2009 fluctuates between 500,000 and 750,000 and represents 1.09% of the total population of Italian residents, and 25.6% of all foreigners in Italy. (Source: OSCE – Organization for Economic Cooperation and Development).

Graph b: Detained Foreigners in Italian Prisons by Nationality and Sex as of February 28, 2013

Country	Women	Men	Total	% of All Foreigners
AFGHANISTAN	0	22	22	0.1
SOUTH AFRICA	0	8	8	0.0
ALBANIA	29	2,861	2,890	12.3
ALGERIA	1	620	621	2.7
ANGOLA	0	4	4	0.0
ARGENTINA	3	26	29	0.1
ARMENIA	1	3	4	0.0
AUSTRALIA	0	3	3	0.0
AUSTRIA	1	5	6	0.0
PALESTINIAN AUTHORITY	1	74	75	0.3
AZERBAIJAN	0	3	3	0.0
BAHAMAS	0	3	3	0.0
BANGLADESH	3	78	81	0.3
BELGIUM	4	15	19	0.1
BENIN	0	10	10	0.0
BELARUS	0	7	7	0.0

BURMA (MYANMAR)	0	1	1	0.0
BOLIVIA	7	22	29	0.1
BOSNIA AND HERZEGOVINA	56	158	214	0.9
BOTSWANA	1	0	1	0.0
BRAZIL	38	142	180	0.8
BULGARIA	43	289	332	1.4
BURKINA FASO	1	24	25	0.1
BURUNDI	1	7	8	0.0
CAMEROON	0	7	7	0.0
CANADA	0	6	6	0.0
CAPE VERDE	1	7	8	0.0
CZECH REPUBLIC	1	24	25	0.1
CZECHOSLOVAKIA	1	3	4	0.0
CHAD	0	3	3	0.0
CHILE	10	111	121	0.5
CHINA	30	283	313	1.3
CYPRUS	0	2	2	0.0
COLOMBIA	14	116	130	0.6
CONGO	2	15	17	0.1
DEMOCRATIC REPUBLIC OF CONGO	1	2	3	0.0
REPUBLIC OF KOREA	0	1	1	0.0
IVORY COAST	1	91	92	0.4
COSTA RICA	1	9	10	0.0
CROATIA (Hrvatska)	25	88	113	0.5
CUBA	7	42	49	0.2
DOMINICA	0	4	4	0.0
DOMINICAN REPUBLIC	39	187	226	1.0
ECUADOR	10	194	204	0.9
EGYPT	1	478	479	2.0
EL SALVADOR	2	27	29	0.1
ERITREA	1	27	28	0.1
ESTONIA	1	11	12	0.1
ETHIOPIA	3	16	19	0.1
FAROE ISLANDS	0	1	1	0.0
PHILLIPINES	12	64	76	0.3
FRANCE	9	119	128	0.5
GABON	1	164	165	0.7
GAMBIA	3	145	148	0.6
GEORGIA	10	182	192	0.8
GERMANY	7	69	76	0.3
GHANA	5	174	179	0.8
JAMAICA	0	4	4	0.0
JORDAN	0	9	9	0.0

GREAT BRITAIN	3	26	29	0.1
GREECE	0	72	72	0.3
GUATEMALA	0	7	7	0.0
GUYANA	0	1	1	0.0
GUINEA	0	43	43	0.2
GUINEA BISSAU	1	12	13	0.1
EQUATORIAL GUINEA	0	1	1	0.0
HONDURAS	0	1	1	0.0
INDIA	0	112	112	0.5
IRAN	2	40	42	0.2
IRAQ	0	94	94	0.4
IRELAND	1	4	5	0.0
ISRAEL	0	17	17	0.1
KAZAKHSTAN	1	3	4	0.0
KENYA	2	13	15	0.1
KYRGYZSTAN	0	1	1	0.0
LAOS	0	1	1	0.0
LATVIA	3	13	16	0.1
LEBANON	0	15	15	0.1
LIBERIA	3	70	73	0.3
LIBIA	0	43	43	0.2
LITHUANIA	4	71	75	0.3
LUXEMBOURG	0	2	2	0.0
MACAO	0	4	4	0.0
MACEDONIA	4	119	123	0.5
MADAGASCAR	0	1	1	0.0
MALDIVES	0	1	1	0.0
MAYLASIA	0	4	4	0.0
MALI	0	39	39	0.2
MAROCCO	37	4,412	4,449	19.0
MAURITANIA	0	18	18	0.1
MAURITIUS	0	5	5	0.0
MEXICO	3	12	15	0.1
MOLDAVIA	9	195	204	0.9
MONGOLIA	1	0	1	0.0
MONTENEGRO	0	6	6	0.0
MOZAMBIQUE	0	1	1	0.0
NICARAGUA	0	1	1	0.0
NIGER	1	13	14	0.1
NIGERIA	130	882	1,012	4.3
BRITISH TERRITORY INDIAN OCEAN (BIOT)	0	1	1	0.0
NETHERLANDS	6	35	41	0.2
PAKISTAN	2	121	123	0.5

PANAMA	0	2	2	0.0
PARAGUAY	11	31	42	0.2
PERU	23	201	224	1.0
FRENCH POLYNESIA	0	1	1	0.0
POLAND	29	175	204	0.9
PORTUGAL	3	21	24	0.1
ROMANIA	284	3,420	3,704	15.8
RUANDA	1	14	15	0.1
RUSSIAN FEDERATION	9	59	68	0.3
WESTERN SAHARA	0	1	1	0.0
SAN MARINO	0	1	1	0.0
SENEGAL	2	401	403	1.7
SERBIA	3	77	80	0.3
SEYCHELLES	0	1	1	0.0
SIERRA LEONE	2	39	41	0.2
SINGAPORE	0	1	1	0.0
SYRIA	0	28	28	0.1
REPUBLIC OF SLOVAKIA	5	25	30	0.1
SLOVENIA	1	27	28	0.1
SOMALIA	3	106	109	0.5
SPAIN	22	150	172	0.7
SRI LANKA	0	40	40	0.2
UNITED STATES OF AMERICA	3	20	23	0.1
SUDAN	1	55	56	0.2
SURINAME	0	2	2	0.0
SWEDEN	1	3	4	0.0
SWITZERLAND	0	28	28	0.1
REPUBLIC OF TANZANIA	4	51	55	0.2
TOGO	3	18	21	0.1
TOKELAU	0	1	1	0.0
TRINIDAD AND TOBAGO	0	1	1	0.0
TUNISIA	23	2,920	2,943	12.6
TURKEY	0	77	77	0.3
UKRAINE	17	176	193	0.8
UGANDA	0	1	1	0.0
HUNGARY	7	41	48	0.2
URUGUAY	5	22	27	0.1
VENEZUELA	9	35	44	0.2
VIETNAM	1	1	2	0.0
YUGOSLAVIA	53	408	461	2.0
ZAIRE	0	1	1	0.0
ZAMBIA	0	1	1	0.0
NON-DEFINED	4	15	19	0.1
TOTAL	1,130	22,300	23,430	100.0

Note: The citizenship of a detained foreigner is registered at the time he enters into a penal institution. It is for this reason the above list may include countries that no longer correspond to the current geopolitical set-up.

Source: Italian Department of Penitentiary Administration – Office for the Development and Management of Statistics and Departmental Support – Department of Statistics.

STATISTICAL DATA

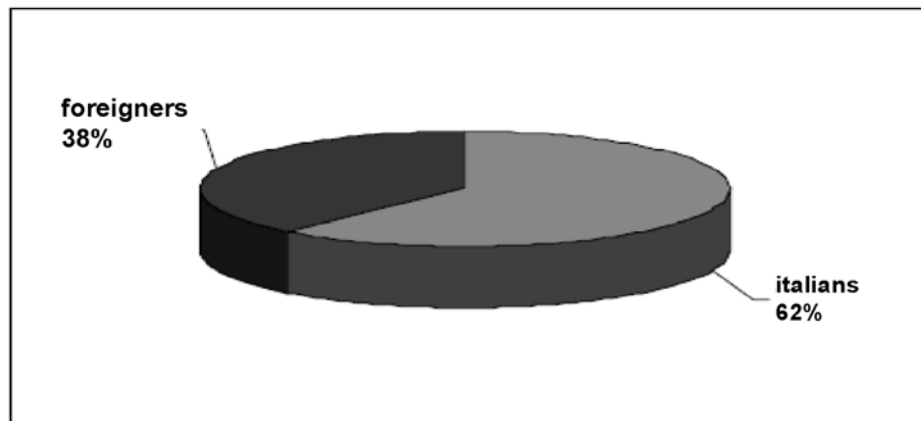
The authorities most associated with monitoring foreign minors in Italy are the Minister of the Interior; Minister of Education; Minister of University and Research; Minister of Labor; Minister of Health and Social Politics; The Committee for Foreign Minors; The National Anti-Mafia Office, The Department of Juvenile Justice; and ISTAT (The National Institute for Statistics). On January 1, 2009, the Minister of the Interior reported that there were 933,693 foreign minors legally residing in Italy (24% of the total number of Italian residents of Non-European Union origin). On August 30, 2009, there were 6,587 unaccompanied foreign minors living in this country (2009 Save the Children ONLUS, Italy).

CPAs (Centri di Prima Accoglienza), or rather, Primary Reception Centers, are facilities in Italy where youths who have been arrested or detained by authorities are brought, and where it is decided what

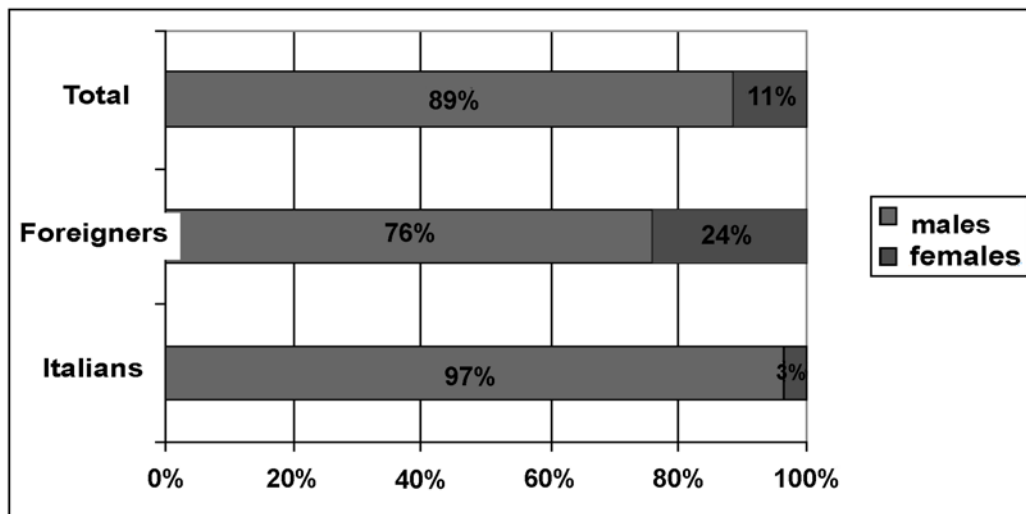
subsequent action should be taken (e.g. release, referral to another center, incarceration, etc.). In 2009, The Minister of Justice reported that the total number of minors who underwent processing at these centers was 2,422 (DGA, 2009): Italians make up 62% of this figure. Interestingly, of all the female minors who went through processing in these reception centers in 2009 (275), 82% were foreign (Graphs 1 & 2).

According to CPA statistics, 32% of these young people were placed into group homes; 29% were found permanent housing; 24% were placed in detention centers; and in 14% of cases, the statute of limitations had expired.

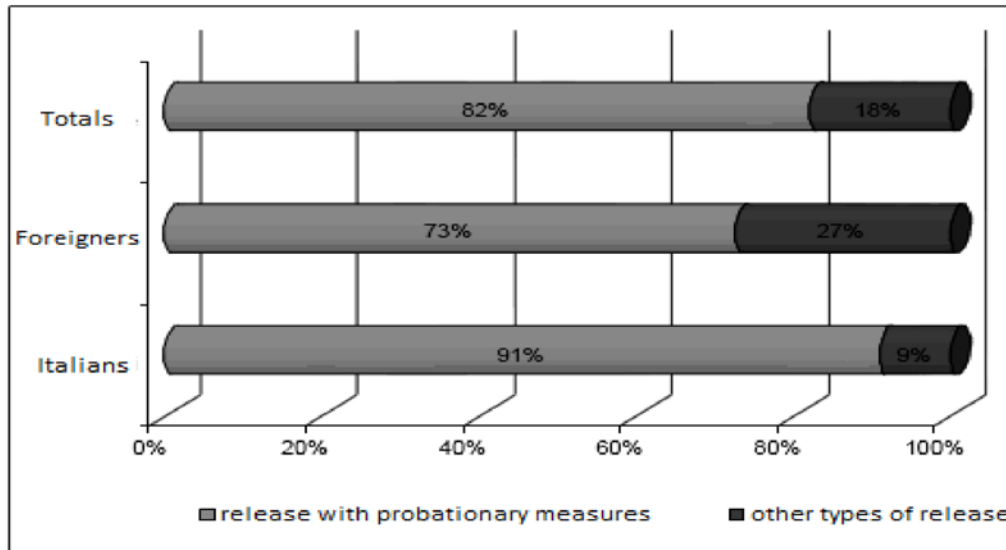
Foreign minors are more frequently placed in jail than their Italian counterparts (Graph 4). This is because it is less likely that a foreign minor would have access to resources that might allow him to be spared detention (e.g. a nuclear family; a home; steady employment). In theory, these foreign juveniles are



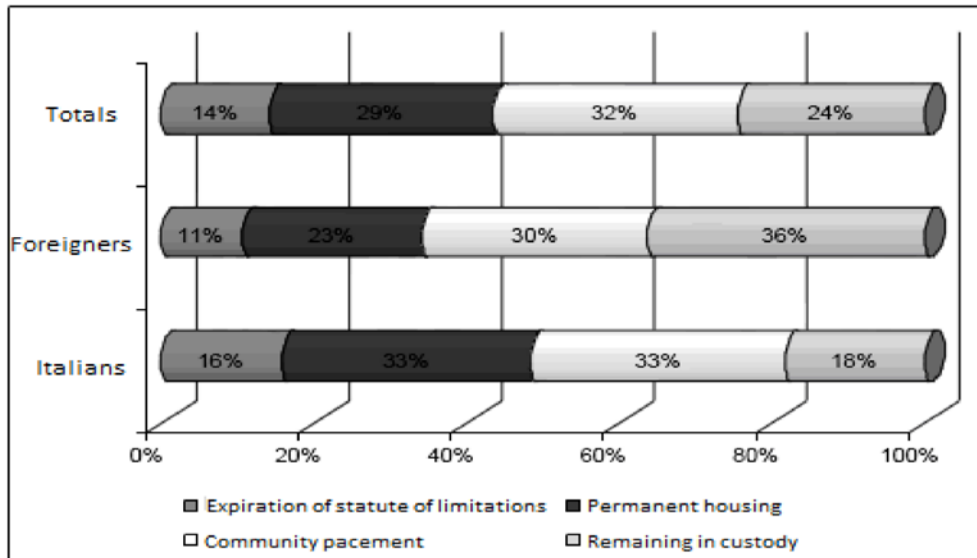
Graph 1: Percentage of admissions into CPA in 2009 according to nationality.



Graph 2: Percentage of admissions into CPA in 2009 according to nationality and sex.



Graph 3: Release from CPA in 2009 with the application of probationary measures.



Graph 4: Release from CPA in 2009 with the application of probationary measures according to type of measures taken.

supposed to have access to detention alternatives, but in reality they must overcome serious obstacles in order to take advantage of them (De Leo, 2001; Scivoletto, 1999, 2000; Servizio Statistica del Ministero della Giustizia - DGM, 2009). A mechanism exists in the Italian legal system whereby minors have their processing suspended and are placed into an alternative, non-jail situation. Once there, the authorities are able to monitor the situation and ultimately take appropriate action. Unfortunately, however, foreign minors often do not have equal access to this mechanism (Graphs 3 & 4).

The subject of foreign minors in Italy is a significant one. According to data provided by The Italian Minister

of Justice (Servizio Statistica del Ministero della Giustizia-DGM, 2009), these young people represent a substantial number of all delinquents who populate juvenile prisons.

LEGAL ASPECTS

When considering minors' rights (UN Convention on the Rights of the Child, 1989; Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, 2010) the role of cultural mediator takes on a particularly important role within the juvenile prison system (Minister of Justice circular from the Department of juvenile Justice No. 6, 2002 – Guidelines on Cultural Mediation in Juvenile Justice

Services). Cultural mediation acts to facilitate relationships between individuals from ethnic minority groups and related social services that are in place to serve them. The cultural mediator aids the foreigner in a variety of ways, for example, by teaching him how to behave appropriately in different situations, and by sensitizing him to the customs and way of life in Italy. The cultural mediator also actively participates at various phases of institutional life, such as helping the minor to communicate with juvenile justice officials, and with relatives. In addition, the mediator also aids the minor's family in navigating the Italian legal system.

Because religion plays such an important role both in Italian, and in other cultures, religious freedom is guaranteed in Italy. Article 58 R.P. and Article 26 O.P. state that detainees are free to profess, study, and practice their own religious faiths. The celebration of Catholic religious rites is guaranteed in Italian detention facilities, and those belonging to other faiths have the right of access to ministers from their own religion in order that they may worship.

Physical activity and social interaction are also two important components when dealing with juvenile delinquents. With the aim of promoting recreational and sport activities within juvenile detention centers (IPMs), the Department of Juvenile Justice has established agreements with numerous sports associations throughout Italy. In addition to this, many individual detention centers have set up collaborative relationships with local voluntary and Third Sector associations, in accordance with Articles 17 O.P. and 68 R.E.

The right to access to medical care by detainees is also stipulated in Italian law: *"foreigners are automatically enrolled in the National Healthcare System for the entire time in which they are detained or interned in penal institutions (SSN: Servizio Sanitario nazionale). Such persons have the right to equal treatment and full equality to any free citizen, regardless of their immigration status [...] detainees and the interned are excluded from having to financially contribute to the SSN"*.

TREATMENT OF FOREIGN JUVENILE DELINQUENTS

Once a foreign minor has entered into the legal system, he must face up to certain realities such as impending incarceration, and many of the factors related to being "an immigrant" (Nathan, 1990; Raison,

1978). It is quite common to find histories of parental abandonment; physical and psychological violence; prolonged separation from loved ones; and forced assimilation into criminal groups when looking into their backgrounds (Augè, 2000; Fabietti & Matera, 1999). There also appears to be a general lack of sensitivity toward these young people and little appreciation for what they go through. If awareness were increased, better overall treatment planning could result. One potentially helpful strategy might be to allow the subject to tell his own story in his own words, allowing him to reassemble any internal breaks, thus aiding integration into his "new world" (Le Breton 2002). In theory, a foreign minor who has a run-in with the law has certain options at his disposal, but due to lack of funding and resources, these minors are often unable to access them.

TREATMENT APPROACHES IN ITALY

By analyzing various treatment approaches in several juvenile detention centers, it is evident that IPMs are committed to guaranteeing prisoners' rights, which include the right to education and placement into the job market; religious expression; and access to cultural, recreational, and sport activities, in addition, to maintaining contact with the outside world, including family members. Moreover, all IPMs offer workshops and professional training courses with the aim of promoting integration and cultural exchange. These courses encourage both self awareness, and awareness of others who are different.

IPMs from Catania (Asero, 2010), Catanzaro and Turin report positive experiences regarding the centralized role of cultural mediators and volunteers who act as a support system for these young immigrants through such deeds as arranging telephone calls with family members, and providing access to interpreters.

Other IPMs from Florence and Bologna (Abbiati, 2010), on the other hand, report a lack of resources and funding necessary to create appropriate treatment plans. They cite, for example, the under utilization of cultural mediators who are often marginalized and relegated to the singular role of interpreter. Cultural mediators are typically only available on an hourly basis, and are not considered to be an integral part of the treatment team. Short stays in IPMs are also reported to be problematic: repeated transfers make it impossible for staff to get to know the minor in order to create an individualized education program. Other

related problems include finding employment; learning the language (Italian); becoming autonomous; procuring all necessary documentation needed to live in Italy; and the absence of family. Under present conditions, cultural mediators are unable to formulate an accurate picture of the culture from which a foreign minor comes.

CONCLUSIONS

There are many risk factors associated with foreign minors who commit crimes, and intervention is essential in addressing such topics as immigration status; geographical distance from parental figures; lack of permanent housing; involvement in organized crime groups; difficulty in ascertaining true biological age; sense of belonging to his culture of origin; and various cultural-linguistic obstacles. (Mastropasqua, Pagliaroli, Totaro, 2008). When an immigrant is unable to integrate into society he often ends up in criminal circles. Conditions related to immigration and secrecy put the individual at particular risk of becoming involved in criminal activity (Barbagli, 1998). The ability of the public sector to handle these difficulties is limited due to lack of funding and resources in general. By reaching out to local public and private organizations, management and staff attempt to find creative solutions to these challenges.

A foreign minor must go through the process of constructing his own identity. This presents both a risk and a resource for the young immigrant. If he is unsuccessful in finding his own identity, he is in danger of losing it altogether. It is therefore necessary to implement a methodology that joins together criminological treatment and psychological counseling, as well as an anthropological/ ethnographic perspective in order to truly understand the delinquent act and to help the juvenile in constructing a stronger self-identity (Grinberg & Grinberg, 1990). When there is a lack of sufficient time and means needed to establish a true relationship with the juvenile, and the plight of immigrants is generalized in the minds of those who serve them, the creation of pre-packaged responses that are poorly tailored to the specific needs of the minor in question is likely. The difficulties associated with implementing and successfully concluding a treatment program is highly conditioned on mental health services and outside organizations. Collaborating with these organizations is fundamental not only with respect to scholastic, social, and work integration, but it is also important in guaranteeing continuity of the treatment that was begun at the IPM.

When considering the usefulness of detention alternatives, the study and development of shareable management models that address the real needs of minors in the juvenile justice system are of fundamental importance. Facilitating the social integration process, appointment of a legal guardian when necessary, and providing qualified legal representation are high on the list of priorities. Only through the development of a united partnership can a welcoming network be created: one that is able to pick up on the first signs of trouble that often confront foreign minors.

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