ALTERNATIVE

Developing alternative understandings of security and justice through restorative justice approaches in intercultural settings within democratic societies

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Deliverable 1.3. Final research report on restorative justice and security

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Restorative justice as an alternative epistemology of justice and security

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Executive summary

Restorative justice as an alternative epistemology of justice and security

This deliverable is an exploration into the potential role of the restorative justice discourse in addressing crimes and conflicts taking place in intercultural contexts in Europe, and in becoming an alternative discourse of justice and security. The ALTERNATIVE project and two of its sites act as a 'laboratory' that supports this exploration, which can be operationalised into the following set of questions:

1. How can the application of restorative justice offer a meaningful intervention outside the criminal justice system and what does this expansion mean for the discourse of restorative justice?
2. How can a restorative justice discourse offer an alternative to the current security discourses, especially in intercultural contexts?

In PART ONE, the set of questions addressed have to do with the discourse of restorative justice itself. In other words: what is restorative justice, where do its boundaries start and where do they end, and by what criteria are we to understand the restorative discourse? These questions were central during the ALTERNATIVE project because one of the main assumptions the project has made was that restorative justice is not exclusively about what takes place within the criminal justice system, but can be applied as an approach to a variety of community-related conflicts, without involving the agents of the justice system for referrals. Working at a distance from the criminal justice system has enabled completely different questions to be tackled and insights to be gained.

Taking a distance from the definition of restorative justice, the deliverable focuses on the object and propositions of the *discourse* of restorative justice, in other words ways to *respond to wrongdoing*. This focus supports our understanding of what restorative justice means as an idea and practice in relation to other ideas, practices and institutions, and to the social, economic and political context, and to reexamine our assumptions about justice.

In thinking of restorative justice as a discourse that offers a response to wrongdoing, the characterisation of restorative justice in terms of three core elements

(lifeworld, participation and reparation) as proposed by Christa Pelikan is discussed. Although this characterisation is representative of the discursive field of restorative justice, the element of *transformation* as an additional feature of restorative justice is considered. The main argument is to add the more ambitious goal of social justice as part of restorative justice's agenda.

The role of restorative justice can be to promote reflection that leads to new forms of social action, which produce feelings of social co-responsibility that go beyond the immediate conflict, by creating and staging forums of endless processes of discussion, bringing conflicts to the forefront of the political scene, transforming the nature of restorative process from judicial to ethico-political. In order to do that, restorative justice can capitalise on Christie's notions of 'conflict-participation' and 'norm-clarification', as well as embrace unpredictable and ambivalent interventions with a potential of leading towards transformation.

In PART TWO, a correlated set of questions address the ways in which restorative justice can offer an alternative to the current security discourses, especially as these discourses merge or intersect with intercultural contexts. In other words: can restorative justice offer a counter-security discourse to the existing security discourses in intercultural settings, on what grounds can it do so and what are some of the implications?

Restorative justice has been proposed within the ALTERNATIVE project as a counter-security approach in intercultural settings, arguing that it was necessary to move away or at least correct an idea of security based on an excessive focus on technology, surveillance and control which amplified instead feelings of insecurity, towards an idea of 'deep' security, a security that is less paranoiac and nourishes human relations through participatory practices, encounters and dialogue. It was also argued that the heightened and obsessive concern about security has put at risk other values, principles and concerns, of which justice was argued to be the most important and therefore the project proposed a need for balance between justice and security. It was further argued that the discourse of (in)security have attributed inevitable social conflicts to intercultural societies which has led to a 'culturalisation' of conflicts and when these conflicts have arisen, exclusionary and shielding mechanisms have been created for social groups to coexist (like gated communities, fences, membership areas). The project intended both to understand and challenge such a culturalised

framing of conflicts, through justice oriented, participatory and communication-based approaches to the handling of conflicts.

In order to highlight both the reconciliation potential and the tension inherent between the notions of justice and security, especially as they relate to intercultural contexts, three main discursive developments are traced: the merging of culture with security discourses, the merging of social justice with a politics of difference, and the merging of punishment and justice with security policies. The implications that each of these trends and insights have for restorative justice, both theoretically and through the action research in ALTERNATIVE are drawn.

Both as alternatives to securitisation of identity which approaches human cultures as essentialised and conflictual, and culturalised versions of identity politics which unwillingly also contribute to such portrayals, but also as alternatives to an overly optimistic restorative accounts on human encounters, two productive notions were proposed: conviviality and *communitas*. By focusing on human relations, on rebuilding and revitalising communities, with its contact and dialogue approach, restorative justice can challenge the current immunitary tendencies that characterise the security discourse.

Additionally, it is argued that restorative justice can be realigned with the emancipation approach of the security studies which argues that the study of security must be oriented towards the identification, analysis and redressing of the insecurities affecting individuals and groups in particular contexts, rather than with the social management of crime approach. Shattering the idea of 'cultural difference' as insecurity, restorative justice can contribute to the unveiling of relations of power in communities and especially focus on the differences which are conditioned by political inequality or economic exploitation, moving thus beyond a 'culturalised politics'. The discourse on social justice offers clearly more robust and normative principles when compared to the discourse of security.

INTRODUCTION

Questions and objectives

This deliverable is an exploration into the potential role of restorative justice in addressing conflicts taking place in intercultural contexts in Europe, and in becoming an alternative discourse of both justice and security. The ALTERNATIVE project acts as a 'laboratory' that supports this exploration, which can be operationalised into the following set of questions:

1. How can the application of restorative justice offer a meaningful intervention at a distance from the criminal justice system and what does this position mean for the discourse of restorative justice?
2. How can the restorative justice discourse offer an alternative to the current security discourses, especially in intercultural contexts?

These sets of questions are tackled in this deliverable both through a broad discursive mapping of relevant theoretical frameworks and their interpretation against the empirical research actions in the ALTERNATIVE project. In order to understand the enquiry here undertaken, we first need to contextualise the problematique of the project: why this project, and what were its main propositions?

The context and problematique

The ALTERNATIVE project has attempted to address several gaps at once, mainly as they relate to the fields and discourses of security, restorative justice and action research. The first reaction was towards the tendencies, both in research and practice, of an excessive focus on technology and surveillance as a way to achieve security. It was argued in the project that efforts to create security by means of preventive technology, surveillance and control tend to produce feelings of insecurity, while security prevails when actors have a sense of being able to control their environment, belong to it and feel connected to others. With this insight, the project has attempted to offer another vision on what security means and how it can be ensured. This was done through putting in practice ideas of participation, encounter and dialogue.

The second reaction was towards what was perceived to be a heightened concern about security which has put at risk other values, principles and concerns, of which justice was deemed to be the most important. This risk is reflected in the wide spreading of CCTVs and other surveillance technological devices violating the right of privacy, 'war on terror' practices violating human dignity and human rights, restriction on asylum seekers, deportation of immigrants, increase in hate crimes. Security, we argued, whilst very important, is just one of the societal values in Europe which must be balanced against others. To balance this, the project proposed to investigate the cluster of justice and security together, where one does not have to be traded for the other.

The third reaction was towards a merging of the security discourse with intercultural settings in general, and migration in particular. First, discourses of (in)security often attribute inevitable social conflicts to intercultural societies. Second, when conflicts concretely arise, exclusionary and shielding mechanisms are created for social groups to coexist, mechanisms which often have led to jeopardising the idea of community, in exchange for security. Both the produced and the emerging cultural diversity introduce challenges related to security and justice, calling for better communication and participatory approaches that would support the handling of conflicts, and this is what the project has proposed to do.

In light of the problems identified above, the idea for the project arose based on the awareness of restorative justice's potential application in the field of security. The repressive, controlling and retributive response is to a large degree the obvious and seemingly 'natural' response, and is based on images of fear of the 'other' and ideologies of 'clashes of civilisations'. On the opposite, we argued that resorting to concrete experiences can counteract the tendencies of reacting to conflicts by resorting to punishment or violence and can provide an antidote to ideology-driven images of crime that evoke fear and against the lure of the politics that feeds on these fears. Dialogical and restorative approaches aim at bringing together different groups in society, leaving behind therefore a narrow technical understanding of security that shields groups and individuals from each other. The project argued that such a dialogical approach that promotes opportunities for deliberations about a common good and a viable way of living together, stands a better chance at producing security rooted in the individuals and groups participating in such a process and therefore is apt to become sustainable.

An additional gap perceived both in research and practice was in relation to the field of restorative justice. Firstly, research had mostly focused on victim-offender mediation and to a lesser extent on conferencing in mostly individual cases, while peace making circles and other types of social mediation seem to offer potential added value when dealing with broader and collective conflicts that affect intercultural communities. The project therefore aimed at exploring the use of such practices as peace making circles and other types of methods in addressing conflicts in intercultural settings. Secondly, extremely limited research has been done on the applicability of restorative approaches to the types of conflicts envisaged in the project, conflicts that take place in intercultural settings, therefore the project was one of a kind in comprehensively and critically investigating this potential. Finally, a large attention in theoretical and empirical research has gone to the role of restorative approaches developed in close proximity to the criminal justice system. Much less work has been done on the place and role of restorative justice in society, and its relation to community building or social work, although it has been argued convincingly that building societal support for restorative justice is of utmost importance and even a condition sine-qua-non for its effective implementation. The project therefore was proposed as an example of how to transcend these gaps and restrictions in restorative justice.

Finally, the project was also intended as a contribution towards action research in general. We had identified in security and criminal justice research an important gap between scientific findings and insights on the one hand, and implementation strategies and impact on the other hand. The project proposed to bridging between theory and practice, and at the same time, it aimed to propose knowledge as a means to produce social change. The methodological approach as expressed in action research implies acquiring knowledge through a process of continuous interaction and dialogue between researchers and those researched and a process of on-going reflection on those interactions. The role of thinking, research, writing, in action research is therefore not to contemplate the universe, but to transform it. The idea of alternative understanding that was proposed in the project thus is closer to the notion of '*verstehen*', which captures a constellation of meanings including a sense of deep understanding, mutual interpretation and an empathetic approach to human experience. Thus, to summarise, the project was an attempt to develop alternative understandings of justice and security in intercultural settings through the application

of restorative approaches and action research, while contributing simultaneously to the societal challenges mentioned above, to the field of restorative justice and to the development of action research.

By design, my main task as a researcher based in the Institute of Criminology in KU Leuven, was limited to conducting theoretical research[1] that could support the other partners to interpret the finding and the actions on the sites. This means that for a thorough understanding and interpretation of the actions, I rely on the materials produced by the action researchers.[2] For this reason, in this deliverable I focus mainly on the actions taking place in only two of the research sites (Vienna and Hungary), given that the research accounts from these two sites are 'thickly' ethnographical, enabling me to close the gap of not having been a local researcher in these sites.[3] The other two sites (Serbia and Northern Ireland) offer rich but research material of a different register, having relied largely on quantitative research methods. Furthermore, being so called post-conflict societies with deep ethnic frontiers, they invite for different interpretations and readings of certain concepts like interculturality, justice and security. Finally, it has also been a matter of choosing to conduct a rather more in-depth type of analysis of fewer cases, as compared to a larger overview of all the cases, which is the task of the comparative analysis in the project (Deliverable 8.5). In what follows, I summarise the most essential features of each site and the action research activities that have taken place in the two countries, which give a good sense on the methodology followed and on the type of materials used for the analysis.

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[1] I have nevertheless co-prepared a survey targeted to restorative practitioners in Europe and conducted field work in four mediation services (Austria, Belgium, Hungary and Norway), where I interviewed 25 mediators on intercultural cases. During those interviews I also had realised that becoming a discourse about security was not part of the agenda of the mediators and therefore further interviews were not needed to inquire further on the matter (see Deliverable 1.2. for the results of those interviews).

[2] These are 33 interviews in Hungary (citizens and experts); 31 interviews from Austria (citizens and experts); participatory observations from both sites; 28 evaluation grids from both sites; minutes of meetings with the researchers; local films; excerpts from logbooks (field diaries); 6 cases (Hungary) + 6 cases (Austria). The interviews and participatory observations are party translated and accessible through 4 main deliverables and the grids. The actions, participant observations, cases dealt with by the researchers are extremely thickly described, which makes them easily assessable.

[3] The second-order interpretations I make on these research sites are based on first-order interpretations that were already co-produced in the course of the project mainly by the action researchers in cooperation with the other project partners, and were further validated through additional communication with the researchers.

The two research sites: Hungary (Kisvaros) and Austria (Vienna)

The action research in Hungary[4]

The action research took place in a small town in Hungary, called Kisvaros.[5] Kisvaros is located about 40 kilometres from Budapest and the number of its inhabitants is around 2,800. There is a strong civil activity in the village supported by the local government (12 NGOs, 14 bottom-up initiatives and 4 local newspapers). It has a kindergarten, a primary school, a high school, a library, a family doctor and a paediatrician. About 80% of its inhabitants consider themselves Catholics and the Catholic Church plays an important role in the life of the village. The town is intercultural, where German, Slovakian and Roma minorities live beside the Hungarian majority (despite their diverse origins they are all Hungarian citizens). There are two minority local governments, the German and the Roma. The Roma minority is the largest in town, about 4% self-declared and about 8% estimated. Compared to other interethnic towns in Hungary, Kisvaros has a reputation for being a peaceful town. The local government has been left wing from 2010 until 2014 and the last year of the action research (which lasted from 2012-2015) the government changed back to right wing, a fact which introduced additional challenges to the already established research.

A great number of social programmes and initiatives have been introduced in Hungary since the change of the regime in 1989, seeking to mitigate the disadvantages of the Roma and foster their integration, mainly in the policy areas of housing, education, health care and employment. The change of the regime constitutes an important before-and-after narrative in the timescape for the town of Kisvaros (and Hungary in general). While on the one hand, the break has enabled the country to enjoy liberties of a civil and political order (like freedom of expression, assembling, religion, self-determination and grassroots movements), it has introduced many challenges of an economic order (poverty, unemployment), which have influenced especially the Roma minority. Prejudice and discrimination towards the Roma, while always present, have increased, especially after the 2008 economic crisis and rise in power of the right wing government, which feeding on the social and economic insecurities of the

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[4]   A detailed description of the findings and research activities can be found in the Deliverable 5.1., Deliverable 5.2., and Deliverable 5.3.
[5]   This is a fictious name.

Hungarian population, framed the Roma minority as a crime, economic and social problem, a discourse which deepened the already existing rift and instigated violent actions towards them.

There are no conflict management services operating in Kisvaros, a fact that makes the intervention of the research team both novel and interesting but also difficult to build and sustain. The main objective has been to offer an answer to the question of how applying a restorative justice approach can support peace in an intercultural community. The research in Kisvaros has been conducted by the Foresee Research Group, a team of young researchers with different skills and background, like sociology, conflict management, psychology, community building, law, criminology and communication. This variety has enabled the team to first complement each other reaching a holistic type of knowledge and second to allocate the right persons for the right tasks within the research. The main reasons for selecting Kisvaros to conduct the action research have been: 1) the intercultural composition of the town, 2) relatively stable political dynamics and social environment that allows for the development of four years long research, 3) the open attitude of its leaders and inhabitants to allow the researchers to engage with the town, and 4) the proximity of the town to the city of Budapest, where the research team is based.

Given the underlying methods and principles of action research, the research team has created a partnership[6] with the community members in order to identify and map issues of importance and local dynamics; has developed methods and ways of studying and understanding them; collected and interpreted data; shared insights with the community and received feedback; and has taken action on the resulting knowledge whenever appropriate. The steps done by the researchers were roughly: 1) conceptual work, 2) mapping conflicts and power dynamics, 3) interventions into conflicts, and 4) evaluation. It is nevertheless misleading to think of the above in terms of steps because by design they were intentionally intersecting, thus there was 'conceptual work' and 'evaluation' throughout the project, and everything done in town can be considered 'intervention'. Another cross-cutting activity throughout the research was 'trust building'. The methods used were interviews, participatory observation, workshops, focus groups and participatory film making.

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[6] Memorandums of Understanding, local support groups, discussion groups, research feedback groups, participation of researchers in local activities and vice versa, participation of the locals in the project activities, etc. (see Deliverables 5.3. and 5.4.)

During the initial phase researchers focused on the types of conflicts, tensions and prejudices that affect community life in Kisvaros.[7] They focused on areas where conflicts were bound to escalate in the community at political, institutional and community levels. Additionally, they explored the existing legal and institutional systems in the community, the related actors and their communication patterns, conflict and crime prevention mechanisms applied in the town and their effectiveness, and finally the social activity of the community in the town in order to identify possible ways to activate local residents. This phase revealed a very fragmented environment of interests and alliances, of shared values and enmities, which were obvious in certain patterns of conflicting lines, that had to do with mobility, religion, ethnicity, socio-economic status, and political affiliation.

Furthermore, this phase indicated a general attitude in town towards conflict-talk (talking about and around conflicts) as one of silence and avoidance. Initially indicated to be an 'island of peace', the town started to unfold in all its complexity and conflictual dynamics more as a 'sleeping volcano' instead. Conflict and conflict-talk are usually feared as a reason for breeding more conflict or throwing fire into the already existing ones. While this was a common attitude shared in the town, the researchers also found that initiatives that are undertaken with the welfare or the interest on Kisvaros at heart are usually welcomed and this seems to be a bridge towards accepting others. In case of conflict, they found that judgment of right and wrong and allocating blame are the most common attitudes, while talking over standpoints, clarifying matters and searching for solutions are neither default practices nor easy to instigate. The 'culture of silence' that was identified led to stereotypical depictions and hardening of homogeneous entities within the town.

Given the fact that the actions of the Foresee research group were neither part of a mediation service, nor part of a jurisdiction, their actions depended largely on building trust with the community in order to get referrals for cases. A referral was considered as every case in which the person who 'supplied' the case also offered access for the research group to the actors of the case. The referrals were evaluated according to a restorative-compatibility and accessibility before a map of six potential cases was drawn and the conflict transformation process started for these cases. In this process, the researchers made use of local inhabitants who were known as 'natural'

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[7]   Following the principles of ALTERNATIVE, the researchers did not want reconstruct the 'real story', but recorded the 'struggle of discourses', which helped them to identify the power-relationships within the community (see Deliverable 5.2).

peacemakers or confidantes in the community. All selected cases were 'living on' cases, which means that even if they happened in the past, their effects were still present or that there was potential for reoccurrence. The conflict transformation process took several stages, the last of which was evaluation of the actions undertaken by the researchers themselves. The actions that the researchers undertook with regard to cases differed from case to case and ranged from interviews, participant observation, to peace making circles.

The researchers identified some pitfalls and difficulties during the research. Despite the support of the mayor, or because of it, the group's 'neutrality' was questioned in the town. The inhabitants who had not been interviewed showed hurt feelings towards the researchers. Furthermore, several inhabitants expressed lack of trust towards the researchers, not being sure why were they there and who had sent them. The film depictions of Kisvaros were not appreciated by everyone for having given voice and face to inhabitants who were not considered by others as important representatives of the community.

The action research in Austria[8]

The action research took place in the social housing estates of Vienna, the *Gemeindebau*. The term social housing is usually associated with sporadic urban planning of public flats constructed for the populations in need, but the social housing in Vienna represents a completely different and unique phenomenon, because it constitutes a substantial rather an exceptional way of the housing market in Vienna. Currently, about 1/3 of the population in Vienna lives in flats built, owned and subsidised by the city. An icon of Red Vienna, the Gemeindebau can be characterised as the apex of a social-democratic government carried by the political ideology of Austro-Marxism that took precedence in Vienna between the two World Wars, but which has undergone massive transformations since, mainly in the light of current neo-liberal tendencies taking place as a result of the post-corporatist welfare state.

As a consequence of increased migration in Vienna, deeply affecting the composition of its population (50% have a migration background) and the pressure coming from the EU[9], there was a major change in the access policies of the

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[8]   For a detailed account of the findings and the research actions see Deliverables 4.2., 4.3. and 4.4.
[9]   Starting with the Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term resident.

Gemeindebau, which opened its doors to foreigners with long-term residence (the directive came into effect in 2006). Opening the Gemeindebau for the migrant population became a target of political fights, manifesting itself in the creation, negotiation and increase of rules for conduct and access criteria. The Gemeindebau has become a place of considerable demographic change and of fluctuation, a place of a wide ethnic heterogeneity, which intersects with (relative) economic deprivation and dependency on social assistance, leading to many conflicts between residents of different cultural background. The opening of the Gemeindebau to migrants constitutes therefore an important before-and-after timescape narrative for its residents.

As the landlord of social housing estates in Vienna, Wiener Wohnen (the administrative body for the public housing estates) is responsible for many issues within the estates as the disposal of garbage, the maintenance of certain infrastructure, security matters, cost calculations of rent and overheads, rule enforcement (including eviction) and their impacts on the daily life of residents. The challenges inherent to its bureaucratic institutions, with their standardised proceedings, and official language lead to some conflicts of this body itself with the residents. However, residents do find themselves in an ambiguous situation, while at times overwhelmed and helpless in the face of the institutional power of Wiener Wohnen, it is the expansion of this very power they identify to be the solution of other annoyances they are facing, for example for what is perceived as continuous misconduct of other residents. The strategy deployed to offer assistance for dealing with conflicts that arise in the intercultural setting of the Gemeindebau was the establishment of the sub-organisation wohnpartner in 2010 inside the housing agency which was staffed with conflict workers and mediators. The guiding principles for the work of wohnpartner state that wohnpartner is responsible for conflict management, community outreach and networking projects within Vienna's social housing.

The conflict lines found are mainly problems of noise, problems around pets, problems regarding the behaviour of children and youngsters (the way they use public space, vandalism, just 'hanging around'), problems around alcohol and drugs, problems around dirt, garbage, smells and car-related problems (parking lots). Researchers have identified since two decades now an ethnicisation – or culturalisation – of conflicts in the housing estates along the lines of old residents (Alt-Eingesessene) on the one hand and newcomers, foreigners (Ausländer) on the other hand (Hanak

1996, Reiter and Reppé 1997). Conflict handling through a direct encounter appears hampered and happens less frequently between the two groups. There is uncertainty regarding the language and the general sharing of norms and expectations. The tendency to turn to the authorities is more pronounced – and accordingly lasting solutions and a more general adaptation and change of the situation that lies at the basis of the conflict do not occur.

The researchers have been working in an 'occupied' field where many activities take place, where a large experience has been gathered and where therefore restorative justice had to find a place that appeared adequate, convincing and complementary to those players that are present and active there. The intervention of the research team is therefore not novel but easier to build and sustain. The research in Vienna was conducted by the Institute of Law and Criminology (IRKS), in partnership with the local organisations of wohnpartner and Bassena. The main reasons for selecting the Gemeindebau to conduct the action research have been: 1) the significant intercultural composition, 2) the existence of conflicts but nevertheless the relatively stable political dynamics and social environment that allowed for the development of a four years action research, 3) the existence of partner organisations that can facilitate and support the research process, and 4) the attempt to understand the potential and limits of restorative justice ideas and practices at a distance from the criminal justice system, and in relation to community building and social work. The steps done by the researchers were: 1) conceptual work, 2) understanding conflicts, narratives and practices of partner organisations in the sites, 3) interventions and capacity building trainings, and 4) evaluation. The methods used have been interviews, participatory observation, workshops, focus groups and participatory film making.

The central concept that the action research has focused on is 'active participation'. After extensive interviews with their local partners and participant observations, researchers mapped projects and initiatives that attempt to mobilise the inhabitants ('Gemeinwesenarbeit' - community outreach) and the dynamics that facilitate or hinder this mobilisation. Both partner organisation, wohnpartner and Bassena, deploy a wide range of strategies that are meant to support residents that get in trouble with each other. Bassena supports also those that are involved in conflicts with various administrative agencies and their decisions. The organisation wohnpartner established as part of the Wiener Wohnen, is responsible for conflict management, community outreach and networking project within Vienna's community housing. The majority of

cases are dealt by wohnpartner through a wide array of interventions, ranging from just talking and giving advice, short-term crisis intervention or making a phone call, to round table conferences or fully-fledged mediation. Whenever a person calls wohnpartner with a complaint about a neighbour, the person is asked to show up for a face-to-face interview. Wohnpartner contacts the other party and the intention is to support both parties to find a solution of their own. Usually, all the inhabitants respond to the offer of wohnpartner because it is perceived as an authority and in case of refusal, the threat of further and more costly options lie in the shadow. Wohnpartner's work is generally based on the working principle of multi-partiality. Empowerment of residents to actively handle their own conflicts is the pivotal task of wohnpartner. The researchers found out that more often migrants are the party complained about rather than complainants and that they often show an excessive readiness to comply with demands of adaptation including renouncing parts of one's cultural traditions and way of living. The tendency and readiness to become engaged in active conflict resolution is higher with migrant residents than with the old-Viennese but there is the language barrier. In conflict-related work, including mediation, the Viennese strive for a solution at the objective, often the material level or the level of deciding on certain rules of behaviour. On the other hand, migrants (mainly of Turkish background) are first of all interested in (re)establishing a relationship, expecting the solution regarding practical matters to follow from that more easily.

The community centre Bassena is active in the neighbourhood of the Schöpfwerk since 1982. The community centre's team of social workers consists of 5 staff members. Bassena is a sub-organisation of and thus financed by 'Verein Wiener Jugendzentren' (Vienna Youth Centres), an NGO which receives its funding from the City of Vienna. But Bassena has also gained a degree of financial independence through creating an additional legal entity in cooperation with other social institutions active in the neighbourhood that has its own bank account and small resources, to finance and implement projects that the Verein Wiener Jugendzentren does not fund. Their objectives are to make up for the effects of social exclusion, to promote general awareness raising, and to support political representation and the capacity for political resistance, but they do not engage in mediation of conflicts. Active participation is both a working strategy and the objective that figures most prominently among the goals the Bassena team set up for its own work - activating individuals, who can possibly be linked to each other and ideally become ties of a local network of residents. Their

objective is also to support and maintain the function of a civil control of public policies and - if necessary - resistance to them. A special quality of Bassena lies with the fact that its social workers also have their office within the community in the housing estate. Bassena is thus a local institution directly and easily accessible to residents. During daily shifts, the overall aim for the social workers is to get in touch with people, to listen to their current concerns and interests. For Bassena, participation of residents to solve a conflict is not the goal, while the provocation of conflict to activate residents. They explicitly strive for structural change and community empowerment. However, active participation as a political goal, a pathway to more democratic societies is still difficult to evince when it comes to living together in the Viennese Gemeindebau. Reliance on the authorities to step in and to enforce various sets of rules, using administrative fines and ultimately eviction is still the most pervasive and the dominant mode of reacting to conflicts.

Both partner-organisations, wohnpartner and Bassena, follow a strategy of empowerment for those in a disadvantaged position, always with the aim of enabling them to participate as fully as possible in the handling of conflicts or more generally partaking in the social life of the neighbourhood. Especially in the field of community work, wohnpartner as well as Bassena pay a lot of attention to migrants, their representation in various activities and the defence of their rights. The narrative of a 'world we have lost' is very strong in the Gemeindebau, where older residents remember with nostalgia the way things were; the loss of social bonding, the administration of the laundry rooms, the closure of the hobby rooms, the abolishment of the 'Hausbesorger'[10], the extended welfare entitlements (for example housing) to the foreigners, the communication difficulties and language differences, the differences in the way of living and lack of unconditional adaptation on the side of foreigners, the uncertainty regarding the language and the general sharing of norms and expectations, and the perceived 'special care' of the organisations for the foreigners. Foreigners on the other hand tell and try to accommodate their stories in narratives of multiple belonging and identity. The use of the term 'Neo-Austrian' (Neo-Österreicher) indicates that citizenship is not considered a sufficient criterion for belonging.

After having mapped the sites for conflicts and conflict transformation dynamics, for signs of active participation, for multiple narratives on identity and belonging, and

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[10] The Austrian version of a 'caretaker', who used to live in the houses they were taking care of and thus served to residents as somebody to turn to with their concerns.

for the partner organisation's objectives and activities, the researchers together with the partner organisations tried to understand what interventions would be both useful and feasible in the sites. Together with Bassena they organised capacity building workshops in conflict transformation and restorative circles' workshops, where the researchers have focused extensively in understanding and highlighting the difference of the restorative approach and community work (Gemeinwesenarbeit). The other intervention has been in cooperation with wohnpartner in the Women's Café in the 21st district, where a group of women of diverse cultural backgrounds regularly meet for breakfast sessions and other group activities.[11] The researchers have organised communication workshops where they attempted to unmake the boundaries between the different women and applied restorative circles that attempted to tackle the rift that had taken place in this cafe. The researchers focused extensively on the differences between the restorative ideas and the way mediation is offered by wohnpartner, mainly with regards to the concept of conflict containment, role of facilitator, issues that can be expressed, transparency and objectives of the process.

The structure of the deliverable

The deliverable is composed of two parts, where each part is composed of a theoretical framework, an action research section and a 'concluding thoughts' section, which attempts to summarise the main arguments and findings, bring both previous sections under one frame, reflect on implications and indicate some future directions.

In PART ONE, the set of questions that were addressed have to do with the discourse of restorative justice itself. In other words: what is restorative justice about, where do its boundaries start and where do they end, and by what criteria are we to understand the restorative discourse? These questions were central during the ALTERNATIVE project because one of the main claims the project has made was that restorative justice is not exclusively about what takes place at a close proximity with the criminal justice system, but can be applied as an approach to a variety of community-based conflicts, without involving the agents of the justice system for referrals and follow-up. Working at a certain distance from the criminal justice system has enabled different questions to be tackled and new insights to be gained.

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[11]   For a careful description of how the Women's Café came into being, see Deliverable 4.3.

In PART TWO, a set of questions addressed the ways in which restorative justice can offer an alternative to the current security discourses, especially as these discourses merge or intersect with intercultural contexts. In other words: can restorative justice offer a counter-security discourse to the existing security discourses in intercultural settings, on what grounds can it do so and what are some of the implications?

PART ONE. RESTORATIVE JUSTICE AS A RESPONSE TO WRONGDOING

PART one of this deliverable tackles the set of questions that ask how can we imagine an application of restorative ideas at a distance from the criminal justice system and what are the challenges, the possibilities and the implications in doing so? These questions were central during the ALTERNATIVE project because one of the main claims the project has made was that restorative justice is not exclusively about what takes place at a proximity with the criminal justice system, but can be applied as an approach to a variety of community conflicts, without involving the agents of the justice system for referrals and follow-up.

1.1. Theoretical framework

1.1.1. What is restorative justice about?

Restorative justice has been viewed as a new social movement, an alternative approach to solving conflicts and responding to crime, a set of values and principles, a lifestyle or philosophy, a normative social theory of justice or a ground-breaking paradigm of justice, or just a variety of programmes complementary to the criminal justice system. The origins of the 'modern' restorative justice movement have been quite contemporaneous in time (around 1970s) but distant in geography and philosophy. For example, writings on informal justice, popular justice, or community justice have been more prevalent in North America and missing from (continental) European perspectives, given the strong tradition on state-bounded justice and the importance of the formal in relation to justice implementation. In this sense the attempt of ALTERNATIVE to explore the application of restorative ideas to conflicts taking place

far from the criminal justice system in European contexts was quite novel but also controversial within the restorative justice field.

Within the field scholars have often felt a need to "develop a clear and explicit definition and vision of restorative justice… [which] should serve as a unifying focus for reflection and experimentation among practitioners and scientists, and should inform policy makers and the public about what restorative justice is and is not" (Bazemore and Walgrave 1999, 46). Nevertheless, the quest for a precise and unified definition, while understandable, seems to be both impossible and to a certain extent, futile. The perfect definition will neither guarantee the preservation of the good reputation of restorative justice, nor ensure its proper application in practice. The justice system - being an assemblage of practices reflecting diverse and multiple values and goals - is often likely to take a pragmatic approach in using and adopting what it sees as valuable. At the same time, imposing strict boundaries within the field, is likely to discourage innovation, reduce diversity and cause stagnation, tendencies which the scholars working within the ALTERNATIVE project had already noticed. The idea of restorative justice as being an internally complex and open concept that continues to develop (Johnstone and Van Ness 2007) is seen therefore here as enriching instead of limiting.

The important question to ask is not what is and what is not restorative justice, but what is restorative justice *about*? The word 'about' stands both for the object of the restorative discourse and for its propositions. Reading restorative justice as a discourse or a discursive field implies making sense of what therefore that discourse is about rather than defining restorative justice upfront. What the discourse of restorative justice is about is 'how to respond to wrongdoing'. The label restorative justice has been on the one hand fruitful in bringing in communication the multiple reactions to wrongdoing across time and place, but on the other hand it has unintentionally 'closed of' the discourse, made it specialised and technical. Once a discourse becomes hermetically closed, it excludes voices and perspectives, even within the discipline of criminology where scholars are officially 'legitimised' to write on wrongdoing, restorative justice is thought to be a field of interest apart, a niche of some sort. But if we ask 'what should our responses[12] to wrongdoing be?' we move beyond the criminal

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[12] By understanding restorative justice first of all as a reaction, does not exclude all the proposals that have been made with regards to the idea of pro-action, prevention, or other similar proposals within the discourse. The type of reaction proposed is certainly more than reactionary, but the ideas towards the future can only be built afterwards, we have to start by the reaction.

justice system into the common space of 'living together', where wrongdoing (ours and others') is constitutive of that common living. Thus, the essential concern in the ALTERNATIVE project has been to understand not just restorative justice as a concept, but what it means as an idea and practice in relation to other ideas, practices and institutions, and what it means in the broader social, economic and political context. Taken seriously, restorative justice forces us to re-examine our very assumptions about justice.

1.1.2.   Core features of the discourse of restorative justice

In trying to understand restorative justice as a discourse that forwards propositions on responses to wrongdoing, I rely on the productive characterisation of restorative justice proposed by Christa Pelikan in several of her writings, a characterisation which has been unfortunately rather ignored in the mainstream literature. Identifying three core elements[13] of restorative justice as *lifeworld*, participation and reparation, Pelikan (2003, 2007) has created a mode of reflection and analysis which while not aiming at building a systematic theory, aims nevertheless at clarifying the meaning of concepts, explaining social relations and articulating ideals and principles. This characterisation, while going beyond a mere enumeration of features, 'underlying values' and various taxonomies, is sufficiently abstract or typical to allow the whole field and discourse of restorative justice to be captured while attending to its polysemic nature and fulfilling the requirement of parsimony (Pali and Pelikan 2014). In developing it, Pelikan has tried to identify a few principles or core elements which are largely undisputable, representative and inclusive. The characterisation is extremely interesting for articulating a difference of what the restorative alternative proposes as compared to other approaches ('a difference that makes a difference'[14]). Being ideal-type (Weber 1968) characterisations, they are necessarily marked by contractions and generalisations and therefore not meant to be taken as a mirror of a rather more complex reality.

Besides the three core features of restorative justice proposed by Pelikan, I also consider here the feature of 'transformation'. Transformation is here understood

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[13]   Not only the features or elements but also many of the arguments that find place here can be traced to Pelikan, have been developed by her or together often in common writings or projects, thus the reason for the tight influence of her thinking on my own.

[14]   This formulation is said to originate from the work on information by Bateson (1972).

mainly as meaning 'change' in the framework of social justice rather than new age conceptions of life-changing experiences, and is usually juxtaposed to the feature of reparation. Transformation is generally the most disputed and the less accepted feature within the restorative justice discourse. Several scholars[15] have criticised the discourse of restorative justice for the distance it has kept from social justice and especially for disregarding social structural conditions of crime and conflict and reaffirming the status quo in their approach to justice (through a narrow focus reparation or restoration). These scholars constitute relatively marginal voices (in the sense of peripheral or disputed) within the mainstream discourse, therefore I would like to pay some attention here to their rather ambitious proposals.

The lifeworld element

While the 'participatory' and the 'reparative element' of restorative justice are well established and generally accepted by researchers and practitioners (ex. we can think of the lengthy debate about 'the encounter/process conception' versus 'the reparative/outcome conception'), the concept of the lifeworld is the less theorised one, and the most original proposal within Pelikan's characterisation. The notion lifeworld (Lebenswelt) has been coined by Husserl and it mainly refers to the every-day world of practical, lived experience. Currently an integral part of Habermas' theory of 'communicative action', the sphere of the lifeworld is "the intuitively present, in the sense of familiar and transparent, and at the same time vast and incalculable web of presuppositions" (Habermas 1987, 131) and "the background consensus of our everyday lives, the vast stock of taken-for-granted definitions and understandings of the world that give coherence and direction to our lives" (Habermas 1987, 133). What is important in his arguments is the way he theorises lifeworld vis-à-vis the system, which he takes to be the coloniser of the lifeworld. He also uses 'juridification' to denounce specifically a legal type of colonisation when law comes to invade more and more areas of social life, and articulates ways the lifeworld could be used to resist colonisation by the system (or in the case of law juridification). The notion of lifeworld has also been considered to have a radical critical capacity by thinkers in the Central Eastern Europe (ex. Jan Patočka) in their confrontation of official culture and thought.

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[15] See for example among others Dyck (2000), Harris (1989, 1998, 1991,2006), Llewelyn and Howse (1999), Lofton (2004), Mika (1992), Morris (1995, 2000), Pavlich (1996a, 1996b, 2002a), Pranis (2001), Shank and Tagaki (2004), Sullivan and Tifft (2001).

How can we think the notion of lifeworld in the context of restorative justice? The main argument in restorative justice discourse, is that the wrongdoing, labelled by the criminal justice as crime is considered a disruption to or disturbance of social relations, instead of a legal breach to the system (Zehr 1990). According to this argument, the starting point of analysis must not be the totalising, objectifying, and abstract categories of criminal justice system, but those concrete situations in the lifeworld which are experienced as problematic by directly involved people, which precede the world of the penal system. This enables a decentring of the concept of crime from a perception of law-breaking, into conflict, dispute, harm, injury, wrong (depending on the lifeworld context).

Lifeworld orientation is thus the opposite of system orientation. In historical perspective we have to understand the emergence of the criminal justice system as part of the formation of the modern state, a state which postulates an absolute equality between people as citizens embodied in their formal equality before the law (Pelikan 2007). Criminal procedure has to refrain from arguments *ad hoc et ad hominem* (Luhmann 1993, 262), given that the law does not deal with the specific circumstances of an event or act, nor does it consider the specific qualities and especially the social status of the persons involved. It is the abstract quality of the act, considered solely according to the definitions of the law and established according to the rules of legal procedure, that concerns the professionals applying the law. Training in law is therefore by definition a training in simplifications. Christie (1981, 21) has called it provocatively "a trained incapacity to look at all values in a situation, and instead to select only the legally relevant ones, that is, those defined by the high priests within the system to be the relevant ones." The lesser is known of the total situation, the simpler becomes the classificatory task, while for Christie (1998, 122) similar cases do not exist but are instead made equal by the artificial mechanisms of penal law, undermining the possibility of each case being treated according to their peculiarities.

Rather differently then, restorative justice proposes to recognise the wrongdoer and the wronged both in their individuality and in their social context rather than subsuming crime in a general, abstract and reductionist legal category. In other words, the lifeworld approach avoids lumping together different events and circumstances into the simplistic category of crime. Under this approach crime is seen as the result of a legal system which makes arbitrary distinctions between various harms and conflicts,

as an artificial construct which throws into one basket a variety of unrelated behaviours and experiences, separating them from other harms and violations and thereby obscuring the real meaning of the experience (Christie 1977, Van Ness and Strong 1997, Zehr 2002). According to Christie, crime is a concept applicable in certain social situations where it is possible and in the interests of one or several parties to apply it, therefore he argues, we can create crime by creating systems that ask for the word, while we can extinguish crime by creating the opposite types of systems (Christie 1981, 74). Especially scholars writing under the perspective of abolitionism, have argued that we ought to do away with the notion of crime (or apply it only to extreme behaviour) and find new ways to tackle undesired or 'problematic situations' (Hulsman 1986). According to Hulsman, criminalisation is nothing else than throwing a garment of ideas over problematic situations, and the criminalising approach is only one option for comprehending and acting on it. In other words, the objection is that the law is an artificial and abstract classification system which is fundamentally incapable of capturing infinitely complex human behaviour, while abolitionists believe that a dialogue between the immediate stakeholders - unconstrained by the requirements of organisations and professionals - would be better at capturing the essentials in any given case. Bianchi has proposed the notion of tort (1986, 1994), and Christie (1977, 1981, 1986, 1993, 2004, 2013) and Hanak, Stehr and Steinert (1989) the notion of conflict. Abolitionists propose then to go back to the things, the events and occurrences themselves, back to the lifeworld or the world of the directly lived experience.

Only if necessary and as a last resort, a restricted state power would interfere in conflicts where deliberation among citizens does not result in an agreement. More prominently, abolitionism argues against the use of punishment, especially in the form of imprisonment, as the main way to react to 'crime'. Most abolitionists prefer alternatives to state organised punishment: conflict solution and reconciliation, replacing criminal by civil procedure, creating social conditions for pain reduction, and even total abolition of criminal justice related institutions. Christie has argued that conflict handling requires active participation more than it requires solutions, claiming that this would create "opportunities for norm-clarification" (1981, 93). This approach suggests very radical implications for the concept and institution of law (Bottoms 2003, Johnstone 2002), transforming the nature of conflict regulation from judicial to ethical and political. Christie's approach acknowledges that it is never possible to make final judgements with regard to the interpretation of norms and values among

members of society, and that interpretations of matters of right and wrong should be made in endless processes of discussion.

It has been further argued by critical scholars that criminal law is a derivative of a particular political economy designed to perpetuate existing power relations (Sullivan and Tifft 2001). Criminal law creates artificial categories of acceptable and unacceptable harms and injustices so as to divert attention from activities of some towards actions of others (Morris 1995, Sullivan and Tifft 2001). In some cases, it is the designation of crime itself that generates harm (for example apartheid criminal laws criminalising those without passes to 'white areas', laws criminalising protest, laws criminalising homosexuality) (Pavlich 2005, 81-82). This type of critique can be extended towards liberal and neoliberal societies and the absolute faith in law, which obscures its political effects. After the abolitionists, there has been another wave of critical criminologists taking issue with the concept of crime, originating theoretically from Edwin Sutherland's (1945) work *Is "White Collar Crime" Crime?* Under this scholarship, the main emphasis is on developing an expanded and enlarged version of what 'crime' could be if it were defined more socio-politically as compared to legally, encompassing social, economic, psychological and environmental injury or damage inflicted on society (either intentionally or unintentionally). Social harm thus becomes a concept that enables criminology to move beyond legal definitions of 'crime' to include immoral, wrongful and injurious acts that are not necessarily illegal, to take into account social harms throughout the whole spectrum of society rather than just the ones recognised by the criminal law (Pantazis and Pemberton 2009). In relation to financial and economic harms for instance (crimes of the powerful), these scholars argue that activities of the state are ignored with much more emphasis being placed on street crimes (crimes of the poor). This is a result of an individualistic focus at the hands of the criminal justice system, which steers attention towards the individual and away from the harmful events that cause social deprivation, poverty and constant growing inequalities between the rich and the poor (Hillyard and Tombs 2004). As a result, society's fear of crime centres more on the likes of street crime being personally committed against them even though a huge, wider range of widespread harms occur due to governmental and corporate deviance (Michalowski and Kramer 2007). Muncie (2000) argues that the power to render certain harmful acts visible and define them as 'crime', whilst maintaining the invisibility of others (or defining them as beyond criminal sanction) lies at the heart of the problem of working within notions of 'the

problem of crime'. This illustrates the powerful role of criminal law in including and excluding certain harmful acts from its definition of crime. Yar (2012) further argues that social justice as a concept should be a vital focus for criminology and requires moving away from the narrow analytical category of crime.

The critique can be rightly made that restorative justice within the criminal justice system uses also the concept of crime. But when the term crime is used in reference to restorative justice, it no longer refers to the criminal justice system's definition of crime, even though it can take it that definition as a starting point to start the process. The restorative justice process is conceived as the means that brings us to the event itself. The limitation of restorative justice discussions to the criminal justice is unnecessary, when we recognise the arbitrary historical distinction between public and private law. The decision as to which conflicts and harms were to be deemed public and those which remained private had little to do with inherent differences in the nature of these acts. Instead, the distinction was grounded on arbitrary choices about which actions could threaten the rulers' social position or control. Thus, the distinction between 'what is a crime and what is not' was, and remains today, the will of those with the power to define crime with an eye to social control. With regards to this, Wright (1991) argues that the boundary between crime and other harmful actions like civil wrongs is often artificial, with crimes not being necessarily different in kind from other actions by which people harm each other, and often constituting civil wrongs. Nevertheless, restorative justice as justice, is necessarily concerned with addressing wrongdoing. Thus, although the scope of restorative justice will extend far beyond the wrongdoing defined as crime at a given time or place, or will challenge that definition, it is not an answer to human conflict regulation (Llewelyn and Howse 1999). This indicates the importance for continuous social dialogue around the boundaries of wrongdoing, a dialogue which restorative justice can promote (see also Llewelyn and Howse 1999, Walgrave 2008 and Deliverable 8.5.). In other words, when looking to move beyond the conventional criminal justice system, as in the ALTERNATIVE project, we should make it explicit whether we are trying to handle problems that have nothing to do with justice or whether by handling them in a certain way we aim at a different conception of justice.

The participatory element

The element of the lifeworld therefore relies on the assumption that a response to wrongdoing means starting from and attending to the immediate experience of the persons involved and the concrete needs originating from those experiences. This implies the participation of those concerned and affected by the conflict to become part of the process, countering thus the alienating and exclusionary effects of the justice system. Scholars of restorative justice have often argued that by reinterpreting harmful behaviour as wrongs against the state rather than wrongs against victims, the state has excluded the victim and offender from having principal roles in dealing with the harm's aftermath (Christie 1977, Zehr 1990). According to these scholars, the best means of doing justice is through collaborative and deliberative processes that promote participation, where each party may express feelings and exchange information about the event in a supportive (safe) environment.

Many arguments have supported this element. The first argument has been expressed in terms of faith in lifeworld oriented processes when compared to criminal justice settings at handling wrongdoing. Such processes are thought to 'produce' real victims, real offenders and therefore real effects. Speaking face-to-face can promote more accurate perceptions of others, disable stereotypes and misattributions (Zehr 1990, 204) and promote a sense of the other as a 'real individual' (Hudson 2003a, 182). Dialogic meetings lead in other words people who do not meet anymore to meet, to avoid that the 'other' becomes a category, an ideology or a part of fantasy, and to acquire a sense of complexity which will change this representation of the 'other'. Christie (1977, 33) suggests that the loss of 'possibilities for personalised encounters' between victim and offender reinforces the misconceptions which each has of the other. He has been often quoted and his ideas have led to a large body of research on what he coined as the 'ideal victim' and at the same time he has also written extensively on his search for the mythical 'monsters', as popular images of offenders, an image which he has always rejected and criticised.

The second argument focuses on countering the effects of exclusion and alienation, promoting education and democracy. Pelikan (in Pali and Pelikan 2010) for example has often argued that restorative justice should be pursued as a countermovement that deals with repercussions of the rise of the modern state and of bureaucratic government (like criminal justice system), by creating democratic procedures and

dialogue practices that overcome those effects of criminal law which work in the direction of exclusion and alienation. Scholars have claimed that to activate people, to bring them together in the effort of resolving conflicts in a constructive way (small-scale exercises of deliberative democracy), contributes to grass-root democracy. In Braithwaite's (1999, 78) words while "disputing over daily injustices is where we learn to become democratic citizens." By participating, people learn more about offenders, victims, the criminal justice system and may therefore come to have more rational demands on the criminal justice system (Dzur and Olson 1994). Restorative justice thus calls for a shift in the "essential role of the citizen from service recipient to decision maker with a stake in what services are provided and how they are delivered" (Bazemore 1998, 334), by giving the community "a forum through which it can exercise its responsibility for its members rather than suffer crime passively and depend entirely upon the coercive power of the state for protection and order" (Schweigert 1999, 33).

The idea that participation hands-on and face-to face contributes both to 'real' or 'embedded' versus abstract learning or knowledge either about 'the other' or about an event go also hand in hand with the idea of 'learning by doing' used extensively in restorative justice. The philosophical roots of such ideas can be found in many thinkers, among whom Heidegger and Merleau-Ponty, who in particular stress the importance of active engagement with things as a means through which knowing occurs. Heidegger (1962) makes the distinction between types of engagement in his terms 'presence-at hand' (Vorhandenheit) and 'readiness-to-hand' (Zuhandenheit). Engaging with something in a 'present-to-hand' way is to observe it from a distanced perspective, such as positivist science which engage with the world as an objective onlooker. He suggests that there is another kind of knowing that can only be obtained through active engagement, both with material and immaterial things. For instance, the concepts of 'empathy' or 'trust' can only be understood in a limited capacity by considering them cognitively, while in order to understand fully their nature, one must be within their realm, either as the party eliciting empathy or trust, or as the one feeling it.

As was also argued before, participation has been promoted as a ground for normative discussions (see Christie 1977) or ethical considerations about justice. Rejecting the term 'conflict-resolution' as it 'presuppose[s] that conflict ought to be solved' (1981, 92), Christie has proposed instead the term 'conflict-participation'

because it is a term that "does not direct attention to the outcome" (1981, 93). Consistently with this view, Pavlich (1996a, 152) has argued that conflict need not be seen as intrinsically destructive: "it could also be an important way of locating and communicating contradictions, inequities and injustices that affect particular people in given power-knowledge-subjectivity formations. In other words, community mediation might, instead of trying to extinguish conflict in its proximate manifestation between individuals, seek to uncover wider dangers of given associative patterns. It could attend to these in forums designed to bring conflicts to the forefront of the political theatre." As can be seen from this less than exhaustive selection of literature on the matter, the idea of participation in restorative justice is a strong and a normative one, and not to be conceived only in instrumental sense or functional terms (participating in order to). It is instead an element that is valued in itself. The idea of participation has also been directly linked to the normative concept of justice (justice as parity of participation).[16]

Nevertheless, the above mentioned normative potential of participation is at the same counteracted by the current neoliberal techniques of 'governing at a distance', whereby governing becomes effective by imprinting on the individual, by making them conform without pressure from above. Neoliberal subjects are considered to be active, responsible, entrepreneur-selves. They are assigned both the freedom of decision and the responsibility for the consequences of their acts, for the choices they make in concrete life situations and for their whole living (Gordon 1991). Soysal (2012) has argued that while expanding the boundaries and forms of participation in society, what she calls the new social project, at the same time burdens the individual, rather than the state, with the obligation of ensuring social cohesion and solidarity. The new model active citizen has to work more, and do it in an environment that is both more competitive and highly regulated in order to prevent anti-systemic alternatives to gain momentum (see Deliverable 8.5.). The violence of participation implies that people actively contribute to reach the consensus and maintain the status quo that is violating them.

In the more specific context of restorative justice, scholars have also argued that its responsibilising rhetoric is perfectly in line with neoliberal objectives. For example Bauer (1997) and others (Bleckmann and Tränkle 2004, Krasmann 1999) have concluded that the restorative model constitutes a new power mechanism, which

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[16] More on this in Part Two.

enables the state to bring people to accept the validity of the transgressed norm and act in conformance with it, forming a decision taken under some kind of 'voluntary constraint', where the mediator always reminds the offender of the consequences of a refusal (the reopening of the criminal procedure under the shadow of the law). Emerging as a critique of state-based disciplinary punishment, bureaucratic form of state control and criminal justice, and of the alienation of citizens from their own conflicts, restorative justice makes its coming of age during the height of neoliberalism and its attack on the welfare state and state institutions, as an attempt to reform the criminal justice system by decentralising the conflict management from the state to civil parties without the interference of professional state bureaucrats (Walgrave 2008).

Its principles and objectives, although not directly deriving from, are embedded in and fed by the neoliberal discourse and its techniques of responsibilisation, autonomy and empowerment, active citizenship and democracy, representing thus an approach that is not only acceptable but even attractive to its subjects, whose goals become closely aligned with those of the corporate state power, an alignment that makes citizens potentially more governable (see O'Malley 1998, Pavlich, 1996b). The activation of the individual citizen is not usually accompanied by the activation of relevant organisational and structural frameworks at a meso and macro level. The quasi-absence of intermediate structures has the consequence that conflict-handling at the individual level is not linked up with the detection of underlying social needs and has no effect on policy-making at a local or central level (Aertsen 2006, 80). Contrasting both a retributive and a welfare justice approach for young people to restorative justice, Cunneen and White (2002) indicate that the difference of restorative justice is that it is something that is done by you, neither to you nor for you. In promoting a participatory approach of justice therefore we have to watch out for one of the main dangers of new neoliberal governance: the exercise of a kind of power which takes freedom itself and the conduct of the population as the correlative object of its own persuasive capacity.

The reparative element

The third core element of restorative justice identified by Pelikan is that of reparation.[17] Participating hands-on and face-to-face in the aftermath of wrongdoing, understood as a disruption of social relations, leads the search for ways of 'making good', for reparation of the harm caused and the situation that led to it, instead of causing punishment for the sake of inflicting pain. One of the central tenets of restorative justice then is that it is counter-productive to address the harm with punishment for punishment's sake: punishment sows "seeds of more social discord and malaise" (Walgrave 2008, 65). Although prison may still be required for serious offences, restorative justice prefers reparation as an outcome over retribution. Reparation is usually decided through inclusive processes of agreement or consensus and it has been argued that even when reparation mirrors retributive ends, the intention of reparation is qualitatively different than the intention of punishment: "whereas punishment is an intentional infliction of pain, reparation is an action to undo harm, which may, however, be painful" (Walgrave 2008, 65).

Reparation directs the focus on obligations to the victim, who has suffered harms and losses as a result of the wrong, even if the act of reparation might be only symbolic. Pelikan (in Pali and Pelikan 2010, 2014), refers to Niklas Luhmann's (1972) theory of the function of law to illustrate how reparation can fulfil this core function. According to this theory the very function of the law consists in the "counterfactual stabilisation of normative expectations" (Luhmann 1972, 43), where normative expectations are those that have come to be codified as articles of the law. The norm enshrined in the code of law does not entail the promise of law-abiding behaviour, but it protects those expecting it (Luhmann 1993, 135). Thus it is the aggrieved party (the victim) that is protected by penal law. According to this conceptualisation it is not in the first instance the offender or the suspect and his or her deterrence, punishment, rehabilitation or reintegration that is at stake – although this might be brought about, but it is a sign that the norm is confirmed, a sign that things are set right and the balance is restored. With restorative justice, argues Pelikan, the verdict of punishment as a sign of counterfactual stabilisation of the norm finds a functional equivalent in the

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[17] Often the element of reparation is used interchangeably with restoration. Here the more modest version is used, but in its usage often restoration can be implied, thus it is not meant as a treatise of defending one term against the other.

compensation or restoration of the damages and sufferings inflicted on the aggrieved party (Pelikan 2003, Pali and Pelikan 2010, 2014).

Similarly, discerning three different levels (or categories), where law becomes effective and relevant: the level of law-making (setting the norm), the level of the procedure (the implementation of the norm) and the level of enforcement (the sanction), Detlev Frehsee (1987) has argued that the level of the legal norm is the most important element of the system of law, whose power lies with the legal norm being used as a means of communication. Individuals and groups of individuals can make their claims by referring to the norm as an orientation, as an 'ought' agreed by society in democratic processes of norm-setting. The level of the procedure is essential insofar it puts procedures at the disposal of those mobilising the law. According to Frehsee these procedures ought to be flexible and allow for 'inner learning' and for a joint effort at working towards solutions. With regard to the execution level, Frehsee argues that whereas law enforcement is an indispensable constitutive feature of the system of law, the effectivity of law is mostly dependent on its mobilisation and not on its execution (see Pelikan 2003). Similarly, Lucia Zedner (2004), in her thorough survey of definitions of punishment, identifies censure and sanction as its two key components, and argues that when and where censure manages to convey its multiple messages to offenders, victim and society, we should put a stop and demand justification before any further sanction can be inflicted.

The feature of transformation

As mentioned before, the feature of transformation is a disputed one within restorative justice. While more difficult to pin down, it refers to the idea that an intervention - in the aftermath of a crime or conflict - must lead to the transformation of the elements within the social situation rather than simply a restoration to the status quo (the well accepted element of reparation or restoration). In both *The Craftsman (*2009) and in *Together: The Rituals, Pleasures, and Politics of Cooperation* (2013), Richard Sennett writes about the importance of repair work in craftsmanship and uses that analogy to think especially about social craftsmanship, so I will follow his example here to introduce the difficult idea of transformation vis-à-vis reparation. He says that there are two main ways to make a repair: static or dynamic. A simple static way is to take something apart, find and fix what's wrong, then restore the object to its former state. This sort of repairing aims at making the object 'just like new'. The craftsman attempts

to leave as little traces as possible, and sees oneself as an instrument of time, crafting in a certain way an illusion that things can be just the way they were before. Even though this has been sometimes the critique made towards restorative justice, in my own reading I have never come across the 'just like new' or 'just like before' idea of restoration, on the opposite an upfront acceptance that things that have been done cannot be undone, and nothing can be returned to its previous state. Therefore, I would like to add a nuance to the idea of reparation versus transformation which I think Sennett helps elucidating. Moving on to the more dynamic ways to make repair he refers to remediation and reconfiguration. Remediation entails restoring the object to its existing form but by using new parts or tools. The craftsman needs therefore a lot of future-oriented judgement on the resilience of the object in time and a lot of inventory skills and knowledge. This version sounded to me more convincing as to how reparation is conceived within restorative justice, using different tools and means to make things right but with a vision towards the future (restoring the future). Finally, Sennett speaks about reconfiguration as a dynamic way to make repair. In this case, the broken object is seen as an occasion to make a radical repair, to make the object different from before. In this case, the craftsman needs a lot of improvisation skills, and as little and incomplete specifications as possible, to allow for experiment and surprise. This is how I envision transformation.

The debate on transformation

Transformation also refers to the ambition of restorative justice to become a discourse about social justice, rather than limited within the criminal justice framework. Given that it does not constitute a mainstream or accepted feature of restorative justice, in this section I will present in a sort of dialogue both the arguments that ask for a merging of social justice with restorative justice and the ones that argue for their distance. Several scholars have criticised restorative justice's narrow scope of dealing with matters closely bound to criminal justice, its narrow focus on interpersonal dimensions of crime, while failing to address the structural dimensions of criminal conflict (class, race and gender-based conflicts) and at the same time have proposed a much broader scope for restorative justice, so as to include injustices occurring at the social-structural level (Dyck 2000, Harris, 1989, 1991, 1998, 2006, Lofton 2004, Mika 1992, Morris 2000, Pavlich 1996a, Sullivan and Tifft 2001). In other words, it is argued that

restorative justice ignores the fact that many disputes and instances of criminal behaviour stem from much deeper and wider social problems (for example, inequalities of wealth and power, inequalities relating to race and gender, oppressions and marginalisation of certain individuals and groups). Sullivan and Tifft (2001) are pessimistic about the achievement of restorative justice in the face of what they call 'social-structural violence', a violence that helps to maintain a particular political economy.

According to Morris (2000, 4) thinking of restorative justice as a reaction to a criminal or harmful event, presumes that one event can define all that matters of right and wrong: "It is like one of those science fiction stories where time stops, and the whole world focuses on this one moment, without a past or future." With regard to this argument, Morris argues that we cannot continue to think about restorative justice in terms of restoration, given that restoration either implies that we had had justice and lost it or that we need to restore the status quo, irrespective of whether or not it was just. On the other hand, Llewellyn and Howse (1999, 41) argue that restoration cannot be simply about rectifying a wrong by restoring the *status quo*, but rather about restoring the relationships between the parties involved to an ideal state of social equality, which implies in their opinion the orientation of restorative justice toward restoring the future and not just the past.

Criticisms go beyond the perceived low aspirations of restorative justice, attacking it not only for not challenging social inequalities but also for maintaining, reiterating, and in the worst case scenario even extending them (Shank and Takagi 2004). For example, Dyck (2000) believes that restorative justice serves to cover up deeply-rooted divisions in favour of an 'ideology of harmony' wherein mediators and facilitators naively assume that 'shared feelings' will bring empowerment, an ideology likely to reinforce the existing social inequalities. Such scholars are critical of the ideology of peace and harmony underlying the restorative discourse and of a political naiveté characterising celebration of ideal speech and dialogue in restorative justice. As they point out, the formation of identities is contingent upon political, economic and cultural variables that often remain repressed, veiled and unspoken in the dialogical exchange. Cook (2006, 121) argues that restorative justice does not necessarily "break down barriers between participants" but "set[s] up a smokescreen whereby the 'invisible privileges' around gender, race and class are reproduced, embraced and

recommended", and as such is a process of social reproduction rather than transformation.

Already in 1980s, critics of informal justice had argued that far from restricting state control over individual lives, of empowering and liberating individual disputants, community mediation programs actually expand and intensify state control (Abel 1982, Baskin 1988, 1989, Delgado 1985, Harrington 1985, Merry 1982, Hofrichter 1982, 1987, Santos, 1980, Selva and Bohm 1987, Tomasic 1982). Despite their variations, the main argument was that to survive and secure its hegemony, capitalist rule and state expansion must be secured, mobilised and obscured through diffuse institutions, without using direct force and coercion and without the appearance of promoting direct class interests or indeed any exercise of power, under the guise of neutrality (Hofrichter 1987). Mediation was seen to fragment the potential for collective labour opposition by neutralising conflict and reducing social problems to individualising disputes, displacing an engagement with fundamental social inequalities and processes of exploitation and domination onto an illusory hope that informal legal processes can actually address those problems, promoting a modality of control that encourages self-management and reinforce middle-class norms (Baskin 1988, Hofrichter 1987, Santos 1982).

Both earlier scholars and later ones have particularly been suspicious of the notion of neutrality in restorative justice, a notion which serves according to them the purpose of dominant powers and institutions. Within critical criminology in particular scholars have challenged taken for granted assumptions about the neutrality of our laws and systems of justice, recognising in them embedded cultural beliefs and values and a tendency to reinforce the *status quo* (DeKeseredy 2011). Rather than viewing the justice system as built upon shared value consensus, a critical approach, taking account of social inequalities and cultural conflict which are played out within the justice system, tends to see the criminal justice system as a site of social, cultural, economic and racial contestation rather than an impartial set of mechanisms. Reflecting on the role of the court for example, Foucault (1980a) had noticed how the court implies that there are categories which are common to the parties present (ex. penal categories such as theft, or moral categories such as honesty and dishonesty) and that the parties to the dispute agree to submit to them. For him what is usually described as ideas of justice are instead weapons through which the bourgeoisie exercise its power.

Restorative justice seems therefore biased towards consensus and elimination of difference among community members. It neglects social distances between people in their environments and tries to achieve peaceful relations between individuals whose interests may be fundamentally in conflict (Pavlich 1996a), and favours harmony and stability of the established social order rather than social change (Dyck 2000, Mika 1992, Pavlich 1996a). Reaching reconciliation among the conflicting parties in such circumstances serves to restore and protect the status quo, no matter how unjust that status quo may be. Given that wrongdoing is usually comprehended as an attack upon the peaceful functioning of the community that creates disequilibrium, the function of restorative justice is to neutralise its effects and return the community to a state of harmony. But by depicting a community free of structural conflict and by construing crime primarily as an individual responsibility, restorative justice betrays an ignorance of or disregard for the importance of socio-economic affiliations and their impact on human existence. This approach does not consider that the solution to the crisis of criminality may lie, not in the restoration of harmony to social relations, but in the dismantling of those relations. For every unequal social formation, disequilibrium is an existential necessity, whereby some people would constantly attempt to change their social position (by legal or illegal means) and others would resist these attempts (by legal or illegal means) (Delgado 2000). Pavlich (1996a) argues that concentrating effort on local harms leads to the development of tools and techniques that contain and isolate the conflict that might otherwise encourage broader political resistance to oppressive collective domination.

Contrary to most of the above arguments, restorative justice scholars believe that restorative justice has great potentials to correct consequences of social inequalities (Braithwaite 2002, Hoyle 2010). On the individual level, the restorative deliberation allows for including considerations of the offender's social position and perspectives to estimate his/her responsibility. The outcome of a restorative process is argued to be less negative for the offender. His/her participation in a restorative process and the acceptance for reparative gestures towards the victim may help to stop the downward spiral and the stigmatisation, opening the pathway towards more social acceptance, less exclusion, more motivation and more socially constructive relations. On the collective level, the respectful deliberation that includes the local community has been argued to contribute towards tackling local more systematic issues (Froestad and Shearing 2013, Pranis 2001). But besides the few who believe that the gap between

social justice and restorative justice can be bridged to incorporate more transformative objectives, most scholars believe that criminal justice must only deal with crime (not with social justice), and for that reason restorative justice must also be focused and limited exclusively as an answer to crime and bound to the criminal justice system (Walgrave, forthcoming).[18]

I will refer here mainly to the arguments made by Lode Walgrave, as the most outspoken and systematic scholar on the matter of whether restorative justice should be considered a form of social justice and especially on the necessity of narrowing its scope to the criminal justice system. According to Walgrave, restorative justice is not about the way we live, but about the way we respond to crime. Arguing for a division of tasks between institutions, Walgrave argues that each institution has appropriate power and equipment to handle their tasks, and crime is the main task of criminal justice. The notion of crime refers to a particular category of conducts, considered as a threat to the quality of social life in general and to which coercive responses may be used. Walgrave is adamant to differentiate the notion of crime from notions of conflict, injustices and the like. This position is also shared by the majority of restorative justice advocates.[19] For Walgrave, criminal justice must be seen as a last resort, when all other possibilities to nurture the obedience to the law have proven unsuccessful. To illustrate this idea, he refers to the notion of a regulatory pyramid (Braithwaite 2002, Dignan 2002, Walgrave 2008), which has at the broad bottom space for deliberation on resolving conflicts and tensions in community, and at the narrow top a very reduced possibility for incapacitation if all other possibilities to cope with serious threats to public life are exhausted. This presupposes a moderated and reserved attitude in the more coercive agencies (like the justice system).

Overall, Walgrave warns for being more realistic on the scope of restorative justice. Restorative justice's starting point is the occurrence of an offence, as it is defined by the criminal justice system. The way to challenge this is not by expanding the scope of restorative justice, but by working within the system, in what Walgrave envisions as the maximalist approach. Maximalist restorative justice seeks to turn the criminal

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[18] Lode Walgrave has made these arguments in a paper called "Restorative justice is not a panacea towards all social evil", presented in an exploratory workshop about critical social theory and restorative justice, organised in Leuven in October 2014, convened by Brunilda Pali and Ivo Aertsen and funded by the European Science Foundation, which will result in the book publication Critical Restorative Justice in 2016, published by Hart Publishing.

[19] See for example most responses to Christie's 'Words on Words" (2013), and especially those by John Braithwaite, Kathleen Daly, Josip Tamarit Sumalla, Lode Walgrave and Martin Wright in *Restorative Justice. An International Journal*.

justice system itself into a restoration oriented system. One example could be by submitting the definition of offending itself to a 'restorative check'. The focus on repairing the harm caused, and not on punishing a norm transgression, may provoke a shift in the selection of conducts subjected to criminal justice. Accordingly, behaviours which appear less harmful (such as the use of illegal drugs) could be decriminalised, others which are harmful to social relations might be criminalised. The current orientation of the penal law towards safeguarding physical integrity and individual property, which neglects crucial social goods such as respect, and social and economic equity, can be corrected according to Walgrave in a coherent maximalist restorative justice approach to criminalisation.

Making an additional argument in favour of the 'flexibility' of restorative justice, Walgrave questions the presumed equality within the criminal justice which does not reflect in implementation and does not guarantee legal safeguards. In restorative justice the equivalence of citizens may be better achieved, argues Walgrave, when the protagonists are stripped of their power and status, and meet each other in a face-to-face dialogue. The flexibility thus offers more opportunities to include an authentic reflection on the social dynamics that influenced the offence and in finding the most constructive way of responding to it. While Walgrave seems sympathetic to the plight of critical scholars to consider the offender in his/her complex social situation, for him being socially excluded does not give a right to assault, steal or use violence, just like being frustrated on the job should be no excuse for the battering husband and having a bad school career is not a reason for street robbery. One cannot compensate social injustices by tolerating other social injustices through crime.

The responsibilising and individual approach does clearly not remedy structural systematic social injustice, argues Walgrave, but remedying structural social injustice is not the main mission of criminal justice, while addressing individual problems and situations is its mission. Therefore, a realistic ambition for restorative justice must be on the one hand not to worsen social injustice and discrimination, and on the other to contribute towards improving the prospects on the individual level. Walgrave concludes that restorative justice is not an institution meant to remedy social injustice. Referring to Hans Boutellier's metaphor of social institutions as a soccer team (2006), where safety policy was considered the defence, and the judicial response to offending was the goalkeeper, according to Walgrave, complaining that criminal justice (and by

extension also a 'restorative criminal justice'), does not remedy social inequality and deprivation is like complaining that the goalkeeper does not score enough goals.

Social justice back into the agenda

How to reconcile and make sense of these different arguments? Restorative justice is sort of an anomaly within the whole criminological enterprise (where the focus is largely on crime and the criminal) with its pursuit of justice, and therefore claiming an affiliation with social justice ideas and policies is not surprising in itself. It is furthermore not surprising due to the fact that usually the institutions of justice (whether police, courts, probation, prison) deal with the most marginalised and deprived sectors of our societies, a fact not to be ignored no matter where one decides to put the blame or handle the matter. I would like to refer to two additional arguments which support the transformative ambitions of restorative justice. The first argument has to do with the rise of the criminal justice system, the second is more actual and addresses its role within neoliberalism.

Actions which violate the social order of a community, society or country are responded to through various mechanisms, which change over time according to changing social structures. In their seminal *Punishment and Social Structure,* Rusche and Kirchheimer (1939/2003) argued that every system of production tends to discover punishments which correspond to its productive relationships, singling out the labour market as the key determinant of both quantity and quality of punishment. In a very simple formula, they argued that scarcity on the labour market increases the value of labour and decreases punishment, while oversupply of labour, decreases its value and therefore increases punishment. Even if their analysis sounds reductionist, it showed unambiguously how punishment and penality are more than just attempts to reduce crime or deliver justice. Shifts in ways of reacting to wrongdoing are among other things, the result of struggles for authority, for control over non-conformers and of political reactions to social-economic systems.

In particular, the rise of the judicial institutions has been considered to be the political response to the extended crisis of the feudal mode of production. Faced with peasant and urban revolts, the feudal lords sought the support of a centralised power, army and taxation system. In this emergency arose the early forms of police and a centralised judicial system, an arbitrator both neutral and with authority, whose task

was both to 'justly' resolve disputes and to exercise 'authority' in the maintenance of public order (Foucault 1980a). The rising penal system aimed at the most mobile, the most excitable, the violent and dangerous elements among people, those most prepared to turn to direct, armed action. Its function, argued Foucault, was first to make the proletariat accept its conditions, and second to introduce contradictions between proletariat and the 'dangerous classes'. Penal law was thus created by the bourgeoisie as an important weapon in the system of divisions which they introduced.

The state was called into being to guarantee the reproduction of the social relations of production and to hold the balance of power between two classes which had two very different and competing modes of production: the declining feudal nobility and the rising bourgeoisie. According to Norbert Elias's *The Civilizing Process* (1939/1982), monarchs could enjoy such great power because they played against each other these two rival classes. The modern state became the sole source of judicial powers and it used penal law as a key instrument to establish and to consolidate its domination. It extended its realm of power and established its monopoly of the use of force, coercion and violence by promising equality of all those new subjects that come under its rule (Pelikan 2007). In other words, the achievement of equality through a high level of abstractness in criminal procedural law, is a type of equality created within the justice system to make up for an equality that does not exist otherwise. It is thus not a coincidence that from the mid-19th century imprisonment became the standard means of doing criminal justice, as the form of punishment which accorded best with the juridical worldview of the new ruling class, the bourgeoisie. Criminals would pay for their crimes with the one currency which all could afford: freedom (measured in the currency of 'time'). Christie (1981, 95) says "it is correct that our prisons are by and large filled with poor people. We let the poor pay with the only commodity that is close to being equally distributed in society: time." The criminal justice system and prison as a form of punishment therefore banished the class inequalities which had marked pre-capitalist societies, by considering everyone to be equal before the law.

This is a familiar story, but nevertheless forgotten. Casting a look back at the history of the modern state and rise of its penal institutions is an important reminder of how and why it is impossible to separate the political function of penal institutions from its justice functions, taking seriously Foucault's (1975/1995) caution to take penal practices less as a consequence of juridical theories than as a chapter in political anatomy. Tracing the changes and displacements that took place during the 19th and

20th century in penality, Foucault had argued that such displacements in time have implied even an escape from the universe of penal law to another universe difficult to integrate within the judicial system, a regime of security. Current trends and shifts have fully confirmed Foucault's analysis, indicating a move in penal policies towards calculations of risk and insurance technologies (Castel 1991, Ewald 1991, Feeley and Simon 1992, Rose 1999, Simon 1987) where the task of penology has become managerial. Under such a task, prison becomes a warehouse that provides maximum security at a high cost for high-risk offenders.[20] Joining the debate, in *Punishing the Poor,* Loïc Wacquant (2009), argues that penalisation must not be seen as a response to criminal insecurity but to social insecurity, insisting on the necessity to bring (back) poverty and justice policies into a single analytic framework.

Revisiting the materialist critique started by Rusche and Kirchheimer, Wacquant (2009, 303) views the rising punitive turn as a ruling-class response towards establishing a new economic regime based on capital hypermobility and labour flexibility and towards curbing the social turmoil generated by the public policies of market deregulation and social welfare entrenchment that are the core building blocks of neoliberalism. Therefore, besides the consideration of core elements of neoliberalism that are largely accepted among scholars (like economic deregulation, welfare state devolution and retraction, and the cultural trope of individual responsibility), Wacquant adds the expansive, intrusive and proactive penal apparatus as its core organ, an organ that checks the social reverberations of social insecurity, creates and maintains class and ethnic hierarchies, and controls popular discontent. Ironically then claims Wacquant, the populations most directly disadvantaged by the labour market are the ones to be 'privileged' by the penal system. Under this scenario, criminal justice is not just a goalkeeper.

These two arguments challenge therefore the function of the criminal justice system as being simply one of delivering an impartial and neutral sort of justice, confirming instead its important role in maintaining a socio-political and economic system, and in creating and perpetuating societal divisions. Whether these arguments will be taken into considerations full force or whether they will be challenged for their reductionism and claims to total (absolute) explanations, the fact remains that they have to be taken seriously enough as to make us doubt the extremely naïve beliefs about the function of criminal justice and punishment in particular. On the one hand, the

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[20] More on this in Part Two.

refutation that criminal justice has anything to do with social justice and that crime is a very special kind of action is in light of the awareness that the two arguments bring, unattainable. On the other hand, saying that every act called crime has socio-economical roots is also an extremely reductionist and questionable claim.

The challenge for restorative justice therefore is in maintaining a balance between empirical realities and political awareness, between single cases and the large societal context. Specific incidents or individual cases can be used as a 'doorway' to explore underlying issues. In addressing deeply rooted structural violence or inequality, we have to develop the ability to maintain therefore a balance between the specificity of an act and the immensity of the context in which it occurred. Judith Butler (2004, 15-18) writes that individual responsibility must be understood in light of its collective conditions. Instead of allowing the offender to claim the position of victim of social conditions as a rationale for wrongdoing, the imperative of the face to recognise its vulnerability does not excuse the offender's act; rather, it calls for a 'dual thinking' in which we condemn the violence but also ask how it came about. This dual thinking has the potential to promote a new order of responsibility for the relations and conditions that create the potential for violence and injustice to occur.

Restorative justice (or indeed any form of action undertaken in the framework of criminal justice) cannot, of course, solve problems of social inequalities and oppressions in wider societies. But it indicates that whenever possible penal interventions have to be limited while social, economic, educational and participatory interventions have to be multiplied, since the intersecting problems and factors identified from complex social conflicts offer confirmation that criminal processes are certainly not best placed to respond to these kinds of problems. Dialogic processes alone can neither offer alternatives to the socio-economic and other cultural factors which may give rise to societal conflicts, nor prevent the influences of media or contemporary politics, but can promote reflection that goes beyond the immediate conflict and lead to new forms of social action and social co-responsibility, setting in motion processes of cooperation and transformation (see Walters and Hoyle 2012).

Given that currently within the restorative justice movement the risk of co-optation of the restorative agenda by neoliberal and management oriented approaches to crime and punishment is extremely high, and especially when the social justice agenda is increasingly becoming unfashionable and impossible to utter and argue for, we need to reconsider a more ambitious transformative agenda oriented towards social justice.

To do this, going back to Christie's vision of participatory justice as a means to creating opportunities for 'norm-clarification' (meaning 'a continuous discussion of what represents the law of the land') might be fruitful. Christie's approach acknowledges that it is never possible to make final judgements with regard to the interpretation of norms and values among members of society, and that interpretations of matters of right and wrong should be made in an endless process of discussion, in forums designed to bring conflicts to the forefront of the political theatre (see also Pavlich 1996a, 152).

1.2. Action research results

1.2.1. The core features throughout the ALTERNATIVE project[21]

In this section I will trace the elements of lifeworld, participation, reparation and transformation as they have been embraced, used, questioned or challenged within two of the four sites researched in the ALTERNATIVE project. The main difference between these two research sites was the fact that in Vienna the research takes place in a space of already existing mediation services and community organisations, therefore the specificity of the restorative approach becomes thinkable against other existing options. In Hungary, on the other hand the research takes place in a space where no institutionalised conflict work exists. The restorative actions are therefore neither part of a mediation service, nor part of a jurisdiction, which makes them extremely creative but also difficult in terms of trust and legitimacy.

The element of lifeworld

The lifeworld element has been strongly embraced within the Alternative project. Researchers unbound by any legal or institutional restriction focused their full attention to the concrete situations in the lifeworld of people. There were two strategies used in the research in general regarding the notion of lifeworld, especially as a way to both stretch and test the limits of both action research and restorative justice in intercultural settings. The first strategy was that of contextualising. Instead of

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[21] The second order interpretation provided here is as said largely based on the researchers' first-hand interpretation as done in several of their deliverables, and a subsequent consultation with them on the validity of these second-order interpretations.

understanding people as free floating ethnographic subjects, the researchers chose from the beginning to contextualise the settings in the larger socio-political and historic scene of their countries and beyond. Thus in the case of Vienna, before starting looking at the micro life histories, we read about the history of the Gemeindebau, about its demography, about the history of migration in Vienna in particular and Austria in general, about statistics, the policies of diversity and integration, European directives, media debates and political developments. We read the same about Hungary, its social-historic background, the situation of the Roma, the attitudes towards them, policies and programmes. The contextualisation is extremely important to understand not only the background of the lifeworlds that unfold in the sites but also to emphasise the difficulty (in fact impossibility) of separating lifeworld from context. They influence, constitute, amplify and challenge each other.

The other strategy used by the researchers has been a multiplication of lifeworlds, where everyone was given a chance at either creating a narrative, or contesting one, an exercise which included locals, professionals, researchers, creating a cacophony of voices. The richness of the multiple narratives and points of view of all the people concerned made it impossible or rather difficult for the researchers to classify or categorise people and events too easily, which is an indication of how a focus on lifeworld in itself can counteract tendencies of totalising views, identities and positions. This strategy was inspired by Christie's maxim: the more we know of the total situation, the more difficult becomes our classificatory task.

For example, in the case of Hungary, although the research started with the intention of focusing on conflicts that involve Roma and non-Roma, from the narratives of the locals, researchers saw that conflicts cross-cut many different categories, of which Roma-related conflicts are but one type. During the phase of the diagnosis researchers focused their interest in the types of conflicts in Kisvaros, the tensions in the community and their characteristics, the types of prejudices that affect life in the community. In doing that they did not attempt to reconstruct the 'real story', but recorded instead the 'struggle of discourses' and identified the power-relationships within the community. During this exercise, the researchers came across a very fragmented environment of interests and alliances, of shared and disputed values and enmities. Despite these multiple fragmentation, the researchers were also able to see patterns of conflicting lines in the town, clustered around notions of 'newcomers versus natives', 'non-Catholic versus Catholic residents', 'supporters of the new political

government versus non-supporters', 'Roma-friendly versus Roma-unfriendly residents', 'poor and wealthy residents' and other more blurred categories, like differences in ideologies. What could be noticed moreover was a kind of dichotomous clustering within the town, where the newcomers, non-Catholic, supporters of the new government, the Roma-friendly and the poor were usually to be found on the one side of conflicts and the rest on the other side. This is necessarily an oversimplified version of how interests, alliances and values were distributed, the reality being necessarily more complex, difficult to categorise, and extremely fluid. But nevertheless, while knowing more of the total situation impedes a quick and simple categorisation on the one hand, on the other hand it does not impede a structural understanding of interests and power relations.

A similar approach was followed in Vienna, where the researchers instead of looking at the site as a site of conflicts between old residents and migrants, attempted to collect multiple lines of narratives, which they organised into emerging patterns and clusters, like 'the world we have lost', 'the threat of the other', 'experiences of multiple belongings' and 'experiences of citizenship'. Both strategies (contextualising and multiplying) were on the one hand a clear indication of the importance allocated to the 'thickness' of the notion of lifeworld in research and action, especially when working around notions of interculturality and conflict, but on the other hand they also indicated the impossibility of using the notion of lifeworld as a revealing scene, the un-mediated *lifeworld* that unfolds itself before the researcher and speaks for itself. It indicated how the notion has to be anyway framed, contested and contained by researchers, locals and professionals. The notion of framing is used here mainly as understood by Judith Butler in *Precarious Life* (2004) and in the *Frames of War* (2009), where she argues that frames are operations of power that occur on an ontological, epistemological and ethical level, which regulate the affective and ethical dispositions through which phenomena are not only understood but also constituted. Frames matter in terms of what is problematised and in what manner, and also who gets recognised as a subject and what kind of subject.

Especially interesting in the case of Vienna has been the confrontation of professionals with their own objectives and approaches by putting them in communication with other professionals who apply similar yet different approaches. These confrontations have shown for example how much intervention and subtle steering of action into a certain direction exists even in the seemingly most passive and

non-interfering approach. Even simply adhering to the so-called basic rules of dialogue and seating arrangements creates certain modes of thinking, acting and being on the side of participants, including compliance and resistance. These insights from the different approaches are used to show how strategies of framing, contesting or containing lifeworlds are used by the different social agents and with what objectives and effects.

With regard to the framing of conflicts, researchers in their interviews with the conflict workers found out four main theses. The first one - no conflict line - argues that the Gemeindebau is not ridden by conflict and even less so by conflicts along the lines of cultural difference. The second one - intercultural conflicts line - argues mainly that conflicts that are due to cultural differences are pervasive in most of Vienna's social housing estates. The third one - culturalisation of conflicts line - argues that there are conflicts that are framed along intercultural lines but when looking more closely turn out to be intergenerational and other types of conflicts. This line is the one most favoured by the professionals. The last one - covert racism line - argues that although conflicts are framed around rules about public spaces, noises and smells, they are in fact intercultural conflicts. Articulated mainly by migrants themselves, this argument insists that complaints are ultimately fostered by racist sentiments and will therefore never be amenable to any kind of dialogue or a rational dispute mechanism. This last line is one to which conflict workers show resistance, because it leaves little space for them to act (they call it a 'dead-lock argument'). The way wohnpartner but also other city-related institutions handle the diversity in the Gemeindebau is through a focus on rules, pointing at an avoidance of open talk regarding cultural differences ('norm clarification'), by focusing instead on rules of living together as neighbours. Nothing substantial thus brings people together, but common rules and procedures, do-s and don't-s. This rule and conduct-based, procedural type of framing of what living together means in a city, is an important one despite its minimalist attempt at providing a definition.

The person who approaches the organisation wohnpartner (which deals with the conflict work), with a conflict is usually referred to as a 'complainant', a type of framing that conditions what takes place next. Being perceived as an institution with an authority expected to enforce the house rules and by framing conflicts as complains, wohnpartner calls for a certain type of dialogue. On a basic level this gives the complaining party to possibility to launch a complaint and the other party to resist it,

negotiate it, but always in a position of defence. Although the service offered by wohnpartner is fully voluntary, in light of the 'perceived authority' of the organisation, the voluntariness of the party being complained about is especially questionable. During their interviews the researchers found out that a large number of conflicts taking place in the Gemeindebau involve persons with a migration background, who are often the party complained about.

It is important to note that while the professionals resist the 'dead-lock' arguments made especially by migrants who claim that conflicts are due to sheer racism, they also resist similar framings by the old Viennese residents. Such resistance shows in the implicit strategy of conflict workers to 'break down' conflicts when complaints are framed by residents in intercultural terms ("it is these Turks and their habits that are unbearable!"[22]). Whenever a person calls wohnpartner with a complaint, the person is asked to show up for a face-to-face interview during which the social workers consider as their main task taking the person seriously ("jemand ernst nehmen"), which means that the conflict worker asks what is behind the words used and behind the complaints expressed, aiming at bringing to the surface people's real needs and interests. Parties are therefore asked to formulate concrete disturbances and irritations that affect their life and their well-being, instead of abstract or general complaints ("We try to explain to the people that together we can tackle those concrete problems, while we cannot change other resident's nationality, or his place of birth or his religious or ethnic affiliation"[23]). If residents insist that their problem is exactly the religion or nationality of the party they are complaining about or their way of living, wohnpartner withdraws its support. Although its work is based on the working principle of multi-partiality, there are clear limits in tackling certain complaints (which become obvious especially in the rejection of thoughtless accusations of terrorism grounded in religious and national affiliation).

Therefore, already at the raw level of the lifeworld, when stories are described for wohnpartner, certain reframing was urged and some articulations were not accepted (ex. racist, anti-migrant, terrorist). The professionals therefore resist an unmediated lifeworld through strategies of reframing and putting boundaries to what can be articulated. Having understood this strategy, residents have in turn adapted to the rules of the game ("learned the code") and the majority refrains from explicitly uttering

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[22] Deliverable 4.2., 50.
[23] Ibid.

insults against residents of non-Austrian origin. The professionals know this, but the non-utterance of racist sentiments in their opinion is still better than uttering them, regardless of the underlying feelings. Indeed, wohnpartner's strategies seem to focus more on respecting certain rules of civility rather than deep transformative change of feelings and emotions in their residents. Another way, the conflict workers stand as in-between complaints, besides the 'breaking down' of abstract (ideological) framings into concrete disturbances, is also by making sure the agreements decided during mediation are realistic. Given that migrants who are often the target of a complaint by an old-Austrian quickly and readily declare that they fully understand what is excepted of them, that they will change their ways, and behave according to the demands of the other (ex. stop cooking the kind of food whose smells are disturbing the neighbour, or stop celebrating their religious holidays), the social workers feel urged to dig deeply into the matter, checking first how realistic such a promise can be and secondly what kind of fears might lie behind the readiness to comply.

The (re)framing strategies of wohnpartner become especially visible during a peacemaking circle with the women in the Gemeindebau, which was a joined cooperation between wohnpartner and the researchers of the project.[24] The approach of the circle facilitator[25], articulated as that of the 'professional ignorant' ("I don't always need to understand people's decisions and opinions. Sometimes, they are based on facts that I am not aware of, but that they know, because of their daily-life experiences. And at the end of the day, they are the ones who have to follow things through and life with it, so what really matters, is that they make sense to themselves, and not to me"[26]), non-interfering in content-related matters was contested by wohnpartner as failing to offer 'clear guidance and safety' to the participants. The 'tight on the rules but free on content' approach promoted by the circle facilitator, made it easier to give vent to xenophobic attitudes and feelings within the circle, going against wohnpartner's policy guidelines and risking to overthrow the work done so far. A radical understanding of active participation and community ownership as a core requirement of restorative circles turned out therefore to be at odds with wohnpartner's perceptions of the scope of active participation (which comes closer to

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[24] See Deliverables 4.3., and 4.4. for a detailed description of the circle.
[25] The facilitator was not part of wohnpartner and neither of the research team, but was contacted on the base of her experience in facilitation of circles.
[26] Deliverable 4.4., 27.

notions of education, empowerment and emancipation, but also simply 'conflict containment').

The researchers have interpreted wohnpartner strategy and the restorative-circles strategy on the other, as being concerned with two different ways of providing containment.[27] Wohnpartner is used to provide containment by excluding certain themes, questions and 'feelings' from being articulated due to certain political constellations. The restorative circle offered another type of containment, making participants acquainted with a tool for dealing with these feeling (however xenophobic) and of giving them space by training listening capacities, putting trust in the capacity of individuals to speak for themselves, and to engage in non-authoritarian relationships. Such an approach would clearly require a lot of time to be prepared and its openness and unpredictability are difficult for wohnpartner, who works on clearer objectives and needs more visible effects.

An altogether different approach is used by the community organisation Bassena. Starting by challenging the position of impartiality or even multi-partiality, they claim instead an upfront engagement with differences in society which are due to structural conditions, thus interfering openly to balance social inequality. Instead of working on individual cases, they focus on the site as a collective. Once the residents are clear about a problem that bothers them, the community workers guide the residents away from complaining, or sharing their frustration and anger, towards an assessment of the resources which they have at hand in order to change the situation. The focus lies with the potential of common actions for people to bear effect on their lives and the spaces they inhabit. Clearly, different moderation or facilitation techniques serve different objectives best. When compared both to the mediation techniques offered by wohnpartner, and to the restorative techniques of the circles, Bassena pursues a more direct and directive engagement of the circle moderator, posing concrete questions and ideas, and when participants lack knowledge necessary for the implementation of concrete ideas, it might even become necessary to recur to professional expertise.

Even in the case of Hungary where the notion of lifeworld could have been expected to freely unfold and reveal itself (given the lack of legal and authority bound restrictions), issues of framing, contestation, and containment were as important. Two things were of particular interest in relation to the potential of lifeworld in this site.

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[27]   The researchers have 'borrowed' the concept of containment from Anton Obholzer (1997).

One is the faith that the researchers themselves had in this notion, and in their strategy of multiplication of lifeworld narratives within the site. But despite their normative faith in relation to the concept, the researchers found out in the case of conflicts that the local residents were usually not interested in their background, details or motivations, or in possible resolutions, thus fully and openly ignoring the emphasis on the context of lifeworld, resorting instead to open judgements and taking sides. Different interpretations of events existed and members of these groups stated that the truth was on their side. These truths were usually incompatible and often very different. The problem is not only that truths are different, but that they are hierarchical, thus very likely one type of truth tends to become the hegemonic one, depending on the different types of capital (symbolic, professional, cultural) the dominant group possesses. The background of the lifeworld is most of the times perceived as too much information that complicates the categorical divisions within the community. Thus it is not that inhabitants are unaware of the other side of the stories, but it seems that these sides of the stories are either considered not legitimate, untrue or not necessary to reach a final opinion or judgement. In this sense, the second interesting thing in relation to the lifeworld concept, is that the mere fact of asking certain people to tell their stories seems to be by definition a political act. This indicates that in certain cases, open verbalisation of hidden conflicts or giving voice to certain repressed narratives of conflicts may be more important than the outcome of achieving consensus. We need therefore to appreciate every instance where restorative actions are tasked with making visible and sayable that which a particular configuration of power renders less available and less legitimate.

The element of participation

The importance granted in the project to the notion of participation went beyond the instrumental ideas of participation as a tool to reach certain outcomes. Participation was valued and promoted as an end in itself. This goes hand in hand with the importance granted to the idea of participation within the methodology of action research itself, making of participation - besides a normative concept - a key theme for the research. Both case studies are interesting for thinking participation, again the Austrian case for its multiple actors and therefore for understanding the specificity of a restorative take on participation, and the Hungarian case for the opportunities and challenges the restorative approach offers in a locality where this approach is non-

existent. First of all, it is important to emphasise that while in restorative justice discourse participation of the parties in the handling of their own conflicts is highly promoted and viewed as a key element, it is rather difficult to imagine participation as a unitary and total concept, it rather comes in grades and shades. This basically means that it is not the same type of participation whether the one invited to a restorative dialogue is a victim or an offender, whether the crime is small or big, whether there is full voluntariness or the shadow of coercion, whether there are huge or small power, age or intercultural differences between the parties, or between the parties and the facilitators. In other words, participation comes with qualifications: participation how, what for, in whose interest and with what effects.

In the project the researchers had embraced the notion of participation by design. Thus participation was a normative concept to start with, but also a concept to be understood and researched, thus allowing for ambivalences, limitations, that could eventually be questioned, challenged, and transformed in light with the process of action research. The main objectives which led to the promotion of participation by the different actors in the two sites (with different degrees) were mainly because: it was believed that conflicts and localities were the ownership of the people; that participation could help solve problems or handle concrete issues; could contribute to counter racism, exclusion, prejudice and lead to togetherness; and because participation was thought to promote a certain political consciousness. Different actors were adhering with different degrees to such objectives, and while they were often compatible, sometimes their differences became more striking, thus more interesting for research.

It is important to reiterate here the main assumptions that have led to the idea of 'participation as ownership', to which the ALTERNATIVE researchers mainly adhere to[28], but not only. The roots lie in Christie's (1977, 10) argument in *Conflicts as Property*, where he began his argument with the assertion that modern society is characterised by too little conflict because they have been stolen, by professional and structural thieves, because they are a form of property. The primary thieves are the professionals, mainly lawyers and treatment personnel, the first solve conflicts for the people, the second define conflicts away turning them into non-conflicts. We - civil society - are, according to Christie, capable of dealing with criminal conflicts, which are

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[28] Nils Christie's ideas of a new participatory way of dealing with conflicts that have been framed as crimes have been explicitly followed by the project and have influenced largely the whole restorative justice discourse.

our property, without the interventionist assistance of the state or of criminal justice professionals. For the direct parties to be empowered the state and its experts must be 'disempowered', or at most must be viewed as resource-persons who might help to stage conflicts, instead of taking them over (Christie 1977, 12). Ownership[29] therefore is for Christie the route to participation. Challenging even the fact that conflicts ought to be solved he wrote that we should instead of conflict management or conflict solving, use the term 'conflict-participation'.

The gist of this argument can be said to have been embodied with different degrees of success by the different actors in the project: researchers, mediators and social workers, who were acting as resource-persons helping to stage conflicts, while respecting full ownership of the parties. Despite the adherence to this idea, they also had other objectives or agendas which sometimes conflict with each other, and thus hinder ownership ideals while bringing other ideals to the fore. In this section, I discuss some relevant issues around the objectives and the effects of participation while comparing the interventions that take place mainly in the Viennese site. The main actors there again are Bassena, wohnpartner and the researchers of ALTERNATIVE. Finding themselves in a field where many activities were taking place and where a large experience had been gathered, restorative actions had to find a place that appeared adequate, convincing and complementary to the social actors present and active there, so mainly the thread put together and also differentiated were between conflict work, community work and restorative work.

Participation was the central concept that guided overall the action research in this site, therefore the concept served as I mentioned in the introduction to this section both as a normative concept and as a concept to be researched. After extensive interviews with their local partners and participant observations, researchers mapped all the projects and initiatives that attempt to mobilise the residents (Gemeinwesenarbeit or community outreach) and explored the dynamics that facilitate or hinder this mobilisation. Finding themselves between the two community organisations gave the researchers the possibility to understand the differences between the restorative proposal and the expectations of the two organisations, but also to understand the differences between these two organisations themselves, and

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[29]   Despite the fact that Christie has been read as promoting conflict as a private property, reading him carefully shows that Christie's notion of 'conflicts as property' means neighborhood (thus common) property rather than private property.

therefore my analysis also relies on the interpretations that have been done by the researchers already in several of their publications.

Although it deals with civil (mainly housing related) conflicts, the organisation wohnpartner stands for a similar model of any restorative justice intervention conducted within the criminal justice framework, it simply seems like a stage before that. Thus while the framing within the criminal framework is that of a 'crime-offender-victim', and the restorative intervention takes place under the full 'shadow of the law' given the authority of the system, the framing of wohnpartner is that of 'complaint (or civil conflict)-complaining-complained about', and the intervention takes place also under a perceived (not real) shadow of coercion given its perceived authority of the organisation (seen as representing the 'landlord' which can use the threat of police, eviction, and criminal charges if needed). The degree of freedom of participation here, at least for the complained about party (just as for the offender in criminal cases) becomes questionable, rather more of an obligation (or a 'voluntary coercion') than a full-fledged free action. The organisation thus, due to its mainly perceived status, walks on the difficult tightrope between providing care, services, administration and exercising control, between social work and watchdog function, between a civil society and state authority, and often many of its efforts are spent in clarifying their role and challenging the fears and expectations of the residents.

Besides direct conflict-handling, the other activities of wohnpartner which comprise community outreach and networking, can be predominantly understood as preventive work, with the main objective of promoting a good and safe neighbourhood. Given the difficulty of defining what a good and safe (intercultural) neighbourhood means, the focus of wohnpartner is usually on *rules of conduct*, especially as they relate to public and semi-public spaces, but also tenants' apartments. In fact, what are usually called conflicts in the social housing estates are typically complains, annoyances, disturbances that have to do explicitly with conduct (noise, smell, drinking, chatting, garbage, shouting), thus wohnpartner, to use the Foucauldian term for governmentality, can be viewed as dealing with the 'conduct of conduct'. Given the explicit objective of prevention and subsequently conflict-solving, the overall objective of wohnpartner can be said to be one of general pacification, thus conflict under these lenses is seen (implicitly) as detrimental. The emphasis of wohnpartner thus is not on participation for its own sake, but on participation as a means to reach solution, agreement and compliance. The mediation setting is most often an administrative one

in which the mediator carries an institutional legitimacy as an expert licensed to resolve conflict.

Wohnpartner spends many energies in getting in touch with people[30] and encouraging them in becoming active, trying different angles and being quite persistent. The underlying assumption of wohnpartner is that activity emerges where people have needs (Bedürfnisse) and this assumption also influences their practices, as we saw in the previous section, when they face a complaint that sounds abstract or 'ideological', they always urge people to 'break down' a complaint into needs and concrete concerns. This type of participation (thus focused on needs, problems, solutions and pacification) can be contrasted with the objectives of Bassena regarding participation. Unlike wohnpartner, Bassena's link to the administrative and political structures to the city of Vienna is less direct. Its social workers have their office within the community centre in the housing estate, thus it is directly and easily accessible to residents, and unlike wohnpartner it is not a bureaucratic structure and lacks real or perceived decision-making or implementing authority. Also differently from wohnpartner, it does not engage in conflict work. Active participation is for Bassena a political agenda that fulfils three functions: to make up for the effects of social exclusion and marginalisation; to promote general awareness raising on topics of importance; and to support political representation, negotiation and the capacity for political resistance. Activating residents is therefore both a working strategy and the objective that figures most prominently among the goals of Bassena. Not only does Bassena therefore not adhere to the active participation of residents as a means to solve a conflict, but rather on the opposite, often the provocation of conflict to activate residents, thus agitation rather than pacification. Their activities[31] do not have the objective of creating a good and safe neighbourhood that focuses on 'conduct of conduct', but a politically conscious and active neighbourhood that promotes sometimes even 'counter-conducts'.

To do that it engages in bringing together and supporting residents to stand up against authorities and against policies these authorities want to impose on the residents. Bassena explicitly strives for structural change, at balancing the differences

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[30] Through its multiple initiatives, like 'Welcome neighbour', 'wohnpartner on the move', the 'Hof-Café', 'Residents' café', we can discern wohnpartner's attempt to become a potential addressee of concerns (see Deliverable 4.2.).

[31] Like the 'Gratisbazar', 'Kaesch' - the alternative trading system, the mobile 'Amt für gute Ideen' (office for good ideas), carpet washing actions, challenging the European policy to privatise drinking water, creating resistance to CCTV implementation (see Deliverable 4.2.).

and social inequality in society, and they believe that when working on individual case work (although they do work on individual cases) it is easy to lose the structural problems that lie behind the individual case. Not identifying with a particular group or practice[32], what it does and the subjects it creates depend on the issue of concern. It offers information, mediates between inhabitants' concerns and politics, facilitates an inclusive process of discussion, knits networks among those who think differently from the many and supports their position. This sort of nurturing of conflicts and a conflictual notion of participation reminds in fact of Christie's (1981, 92-93) arguments, who had challenged the assumption that conflicts necessarily ought to be solved and suggested that participation in conflict-handling may be more important than solutions, proposing therefore the notion of 'conflict-participation' because it does not direct attention to the outcome.

After mapping the activities of both organisations, the researches have attempted to articulate the additional offer of restorative justice to the already existing activities. The interventions they proposed were thus tailored both to the needs of the partner organisations and the lifeworld dynamics in the action research sites, and they are not therefore to be imagined as the typical exemplification of restorativeness (or stand for the restorative approach in general), but as common and complex actions which helped the researchers to identify and articulate the specificity of the restorative approach, but also its limits in the given contexts. With Bassena, the researchers organised capacity building workshops[33] in conflict transformation and restorative circles' workshops, focusing in understanding and highlighting the difference of the restorative approach and community work (Gemeinwesenarbeit). The other interventions in cooperation with wohnpartner took place in the Women's Café in the 21st district, where a group of women of diverse cultural backgrounds regularly meet for breakfast sessions and other group activities.[34] The researchers have offered communication workshops, attempting to unmake boundaries between the Austrian and migrant background women, and applied restorative circles, attempting to tackle the rift that had taken place in this café between Muslim women themselves, while focusing on the differences between the ideas inherent in a restorative circle and the way mediation is handled by

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[32] Nevertheless, Bassena pays a lot of attention to migrants, their representation in various activities and the defence of their rights, and for this reason they are sometimes considered in the social housing as too 'Turkenlastig' (favoring the Turkish, in this case standing as a marker for all immigrants). I will say more about this in the section on intercultural governmentalities.

[33] For a description of Capacity Building Workshops, Communication Workshops and Circles, see Deliverable 4.4.

[34] For a careful description of how the Women's Café came into being and developed, see Deliverable 4.3. and 4.4.

wohnpartner, mainly with regards to the concept of conflict containment, role of facilitator, issues that can be expressed, transparency and objectives of the process.

The main issue to consider in the capacity building workshops was whether a restorative intervention can have any meaning when there is no concrete and individual conflict but simply a common concern in the neighbourhood. For example, in a case where a graffiti marker 'stop Islam!' was put on a wall and which had concerned the social workers, the researchers together with the social workers have organised a workshop during which the participants used the issue as a 'doorway' in order to engage in 'norm clarification' regarding religion in their lives. The question was where lies the ownership of the conflict in this case (with the social workers, with the neighbourhood, with the landlord, with the missing and unidentified authors)? It is difficult therefore to conceive of a typical restorative intervention when there are no identifiable stakeholders, to get an insight into who has done what, who is to take responsibility for what and what is to be done. This process is fundamentally different from what we usually conceive of as a restorative practice setting (like a circle or a conference), where it is typical to focus on concrete experience rather than on abstract notions like 'freedom of religion'. The conflict underlying 'the graffiti case' is situated rather in the 'battlefield' of cultural representation, thus the group struggled to agree on a framing question for the circle and thus found it hard to imagine how to invite others, and what actions to create.

The process of training and capacity building is obviously different from actual conflict regulation. Such workshops allow residents to acquire skills or to enhance already existing communication capacities, which can be eventually helpful resources in situations of conflicts. Some residents have voiced the concern that they might not be able to handle things so well in the real world ("I now know these methods, but I am scared that I won't be able to apply them when my aggression comes up, or when the other person is only intending to hurt me and not willing to understand").[35] The interesting issues to consider here therefore is: can participation in restorative justice be used to educate, raise capacities, by creating role-playing, laboratory conditions, or must participation always be coupled to a real lifeworld condition and ownership? Are such situations more likely to create false tensions in a community, or are they likely to serve as pedagogical tools that can be used eventually in case of real conflicts? Such practices without clear owners and especially in the lack of any legal or administrative

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[35] See Deliverable 4.4.

authority on the side of the researchers raise the issue of freedom versus coercion of participation. When completely free to participate (no shadow of the law, no obligation to participate) whom are we to invite (therefore whom to exclude), and who will therefore participate and for what reasons? The restorative interventions offered by the researchers in the neighbourhood could be characterised as being in-between the practices of Bassena and wohnpartner, therefore between community work and conflict work. Both these organisations operate based on concrete cases, Bassena on an issue to rally people around, wohnpartner on a conflict and therefore they have often easily identifiable stakeholders, and ownership comes in a rather organic way (albeit more difficult in the activities of Bassena). But there are new insights to be gained when there is a conflictual situation that cannot be individualised: a public conflict, a common conflict. Participation in such a conflict comes close to an idea of lifeworld-sharing or 'norm-clarification', especially important in intercultural communities where people do not have a common lifeworld background and are unsure about how to talk to each other. At the same time, such seemingly ambiguous processes can set in motion larger cooperative and transformative processes, which are unpredictable and undefined in the beginning.

Another issue worth dwelling into further was the different understanding that the conflict workers in wohnpartner and the facilitator of the restorative circle[36] had on what the role of a facilitator is. Based on the notion of radical ownership of conflict, the role of the facilitator was articulated closely to that of a *resource-person* who helps to stage conflicts, instead of taking them over (Christie 1977, 12). As mentioned before, the facilitator adhered to the role both of a 'professional ignorant' and that of a detached actor, acting simply as a catalyst or instigator of the conflict, while leaving the expertise completely with the participants. Containing to the conflict was simply based on certain procedural rules during the process (like asking key questions and taking turns in conversation). For the rest the facilitator trusted the self-regulating power of the circle (seating participants in the form of a circle assures that no position in the room is more prominent), and did not feel the need neither to correct power differences nor forbid certain utterances, believing in the capacity of individuals to speak for themselves. At the same time, the approach aimed at contributing towards unfolding and unblocking of the conflict. According to wohnpartner, the restorative facilitation approach did not give enough clear and professional guidance to what must happen,

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[36]   See also the section on lifeworld.

and let the conflict unfold without the need to steer it or contain it. The radical understanding of active participation and community ownership as a core requirement of restorative circles was at odds with wohnpartner's perceptions of the scope of active participation, used to provide conflict containment by excluding certain themes from the discussion, certain questions, and even certain 'feelings'. Even for the participants themselves, 'the rules of the game', or rather the facilitator's continuous questions ('What did you hear?' and 'Is this what you wanted to say?') that served the restorative process, were perceived ambiguously. Some participants experienced emotions of frustration since the questions and the request to adhere to them seemed to prohibit their usual patterns of communicating.[37] Other participants observed that the rules had a decelerating effect on the conversation, which created more space to listen to and think about what other participants were saying.[38] By going back and forth between two participants asking one party to repeat what the other party has said, until the first party confirmed that her statement had been repeated in a way that was satisfactory to her, can be a time-consuming process, but it aims at the creation of common and saturated mutual understanding.

Similar yet still different dilemmas came up in the action research in Hungary, where issues relating to participation were even more pronounced because there the researchers worked in town with no previously existing conflict handling organisations on site to partnership with. Despite having no formal mechanism, there were some informal and dominant patterns of conflict-talk (talking about and around conflicts) and conflict-handling. The researchers have identified a very fragmented environment of interests and alliances, of shared values and enmities in the town of Kisvaros, and a general attitude towards conflict-talk as one of silence and avoidance. While initially indicated as an 'island of peace', the town started to unfold in all its complexity and conflictual dynamics more as a 'sleeping volcano' instead. Conflict-talk was feared as a reason for breeding more conflict, or stirring the depths of the already existing ones. Facing conflict openly was not considered as an opportunity for change but as danger. Despite the fact that the community had several disagreements and harms that were

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[37] Participants experienced this way of communicating with each other as a radical change in the usual patterns of communicating with each other ("It is so good to come here, to talk to people like that, I cannot talk to anybody in my family in this way.") (Deliverable 4.4., 35).

[38] "The effect of the method is to prevent the participants from losing their empathy for each other. Of course, I can also answer these questions on a mere rational level, but that's hard. It promotes me listening to others, to perceive the other, how they are, to stop me from getting lost in my own inner universe ('in meinem eigenen Radl'). And you only can achieve that by slowing communication down" (Deliverable 4.4., 34).

not resolved and were still remembered as painful, inhabitants did not communicate and did not try to clarify openly their affairs.

Silence as poet Adrienne Rich writes in *Cartographies of Silence* nevertheless must not be mistaken for absence, silence can be a plan rigorously executed. Thus while the residents were silent on conflict clarification they were very outspoken on judgements. In case of conflict, researchers found that judgment of right and wrong and allocating blame are the common attitudes, while talking over or clarifying conflict background and context, and searching for solutions, are not common practices and hard to instigate. The culture of silence that was identified seemed to lead to stereotypical depictions about others and hardening of homogeneous entities within the town. Different interpretations existed and members of different groups stated that the truth was on their side. These truths were usually incompatible. The typical communication patterns of local interactions were: retelling the same content several times but louder and louder, partly telling and partly withholding a story line, making up a story instead of offering the 'facts', telling 'truth(s)' instead of opinions, giving answers instead of asking questions, not paying attention to turn-taking in conversations, competing rivalry for the roles (ex. of moderator).

All in all, it seemed at first sight that the local inhabitants were not interested in 'norm clarification', although they are familiar with practices that can lead to it, such as general assemblies, public hearings and so on. The reasons are to be found in convivial practices that try as much to unmake social boundaries, as to maintain and create them (Wimmer 2007). It seems not as if the inhabitants do not know that the other also can be a human, but that they in most of the cases are not interested in pursuing the issue further. In order to construct their own homogeneous identity, they need to exclude, in order to keep their power over certain structures and benefits they need to exclude. The forces operating in the locality can be identified as forces that attempt to keep the status quo, privileges, traditions, positions, religion, divisions, and forces of change, that challenge and dispute the status quo, that try to 'pull out the carpet from under their feet.' In challenging the culture of silence and instigating the culture of dialogue, researchers too then were perceived as forces of change.

Participation therefore comes with qualifications. The majority of the locals are comfortable with the way things go, and do not appreciate new initiatives that try to democratise participation into activities and public life. This became very evident in the case of the film that was prepared by the researchers regarding their research and

work in Kisvaros. The film depictions of the town were not appreciated by everyone for having given voice and face to several inhabitants not considered important representatives of the community. Who has the right to speak on behalf of a community does not seem to be a naïve issue that can be left to researchers, but it is an issue heavily contested.[39] Giving others a voice is only accepted when this voice has no weight and does not attempt to represent the community. Because of the lack of information, several local residents even assumed (incorrectly) that it was the mayor who selected the residents with whom the researcher got in contact and thereby he influenced the findings of the investigation. Some of the local residents felt offended because they were not chosen to be an interviewee. Researchers were told that the missing people (from the interviews) were 'powerful', 'serious' people who 'have an impact on the whole village' and nevertheless "they were not asked, thereby they presupposed an intention behind this neglect."[40]

Participation is therefore appreciated when it gives voice to the ones who already have a voice, and when it is not disruptive of the status quo and existing power relations. Any actor that will do the opposite, despite the attempt to create a democratic representation of voices by bringing in subjugated voices outside the normal consensus and power arrangements, will automatically be perceived as an 'agitator'. The role of the researcher as an uninvited outsider who has the potential to disrupt local dynamics and in rearranging the social forces, leads to acceptance by some, and rejection by others. A position of neutrality seems therefore impossible to claim and hold on to. Given the fact that the actions of the research group were neither part of a mediation service, nor part of a jurisdiction, their actions depended largely on building trust with the community, in order to get referrals for cases. Despite the support of the mayor, or as it turned out because of it, the group's neutrality (impartiality) was questioned in town. As mentioned above the inhabitants who had not been interviewed showed sometimes hurt feelings towards the researchers. Furthermore, several inhabitants expressed lack of trust towards the researchers not being sure why were they there and who had sent them. Some felt anxious and wondered why their town was chosen, some

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[39] "Events belongs to the community. This is how a community is built up and becomes a community. Those who accept the values of the community and want to be members of the community…it's a value. […] Obviously, the ones who arrived from somewhere else…it is difficult for them to accept these values. However, they should not make jokes about these values. […] There are inhabitants who moved to Kisvaros and are talking in this film in a degrading way about what is going on here. "Everything is terrible and doesn't work. Local residents are stupid. They are doing silly things." […] The native villagers […] were strongly harmed. And it is terribly difficult to heal such a harm" (Deliverable 5.3., 23).

[40] Deliverable 5.2., 22.

doubted that problems were so serious that they needed help from the outside, and some even questioned the utility of researching conflicts.[41]

The researchers had to walk the fine line between showing expertise and leaving the ownership for the conflicts with the local community, becoming resource-persons in Nils Christie's terminology. This position seems to be a difficult one to establish for two reasons. One is because if one claims to be useful in a certain context, then people rightly wait for a showcase of expertise. The researchers managed to convince nevertheless that they were good at establishing dialogue between people and to step back from the idea that they were there to solve people's problems. Nevertheless, it is a delicate position to claim because of the fact that they are not locals living there, who can easily claim an interest in the community (even if this interest can be questioned it is bound soon or later to be accepted). In the case of the researchers, despite the fact that they participated in the majority of the events in the *lifeworld* of the community, their presence was still perceived as strange and they as strangers.[42] Another difficulty with claiming the detached position of resource-persons is because of the sensitive topics the researchers had to deal with. If one inquiries into conflicts and power relations, one is bound to find patterns of exclusion, of doubtful decision-making, of wrongs and rights, and therefore a position of neutrality becomes difficult to claim. If by restoring communication the intention is to bring in voices that have been excluded, then the researchers can be perceived easily as 'Saviours of the Roma' or 'Fuelers of Conflicts'. Besides this, the fact that the intervention of the research team took place outside of a legitimate institution, they had to create alliances with local actors, among whom were the Mayor and the leader of the Roma government. Clearly these are local actors with whom it is necessary to forge alliances in order to be able to work in a certain locality, but they are also political actors, thus no cooperation can be perceived as neutral in such cases. It is impossible in any intervention to ignore the local social stratification, power relations and existing gate-keeper roles.

Furthermore, the researchers had two main functions which might have conflicted with each other, even though the tasks were allocated among different people, whose task was only one. Nevertheless, in the town they might have been perceived as a group

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[41] "We have lived here in peace. If they snoop around for conflicts, they will find some for sure, or stir them up by asking about. That's exactly what we don't need'. 'Conflicts have always been around, and we can very well live with them. We have not changed: we do not need to blow them up" (Deliverable 5.2., 65).

[42] "They look at you as freaks. If you travel to the capital or to big cities, local residents will not notice your presence at all. However, this is a small settlement. You are the ones who are freaks, who have arrived from outer space" (Deliverable 5.3., 25).

rather than as distinct individuals with clear-cut tasks. The conflicting tasks were research and mediation, where the research element might have contributed more towards their perceived political engagement. Must a researcher be intelligent or naïve, have an overview on everything or ignore certain power constellations? Despite the acknowledged principle of multi-partiality, locals do not seem to believe in it. Hearing things from all sides (multiplying lifeworld narratives) is the very definition of research, and also of mediation, while people are convinced that taking sides is a natural and unavoidable phenomenon. Action research becomes therefore precarious if not designed from the beginning with the community on a problem that they think is a problem. But the question is this case is who would think that the exclusion of the Roma from playing football, from participating in a local festival, from receiving charity distribution, or becoming a civil guard is a problem, but the Roma, or people who are committed politically or civically to inclusion in general?

An additional difficulty was that unofficial or civil conflict management processes were in this case neither part of a stable and operating mediation/conflict management service, nor part of conflict management within jurisdiction, therefore researchers had to build their own referral channels for handling conflicts, which clearly led to a lot of ambiguous situations. While the advantage is that there is no shadow of coercion and law in the background in any of the intervention (thus freedom and voluntariness is as high as it can be), the issue of participation becomes delicate, because often without coercion the parties who have no interest in the deliberation do not participate and it becomes rather difficult to decide about the ownership of the conflicts when one party refuses or is not interested to participate. Then whose conflict is it, and what is the intervention for? Certainly a more proactive approach is needed in assessing the case, in contacting people, and that contradicts the more reactive approach of typical restorative interventions. At the same time, the tight community structure makes for the opposing sides to be in constant interaction, including confrontation, and this is different from the rather artificial one-meeting approach taking place within criminal justice. And finally, having no legitimacy and no institutional pressure to reach outcomes, makes this process more focused on process than outcomes and it makes agreements, when reached, impossible to follow up or implement. In other words, a process that comes without coercion comes also without guarantees.

The elements of reparation and transformation

This section deals with the elements of reparation and transformation together, as it will become clear that the element of reparation (or restoration) figures rather rarely through the project, given on the one hand the lack of clear articulation of harm and wrongdoing, lack of formal referrals, and therefore also lack of clear positions of victim and offenders, and on the other hand the limit of this feature for the action research proposed through the project. To reiterate, it is a central tenet of restorative justice that participating hands-on and face-to-face on the aftermath of wrongdoing, understood as a disruption of social relations, will lead the search for ways of making good, for reparation of the harm caused and the situation that led to it, instead of causing punishment for the sake of inflicting pain. In restorative justice practices as they relate to the criminal justice system, reparation directs the focus on obligations to the victim. But what is repaired or restored through practices that take place at a distance from the criminal justice system (such as in the ALTERNATIVE project), which party is most protected and how to ensure responsibility and accountability?

What the project has in general challenged is the progressive or circular idea that *lifeworld* is the starting point, participation is the means to, and reparation is the ends, or in the restorative language, the outcome of restorative interventions. As discussed previously, both *lifeworld* and participation were dealt with in the project as outcomes in themselves. Furthermore, in the project the focus was not on measuring of clearly quantifiable or identifiable outcomes coming as a result of the restorative interventions, such as statistical accounts of signed agreements or so- called number of 'closed-mediations'. There has been no attempt at closing cases or repairing damage therefore. Nevertheless, recognising reparation (and restoration) as a key element of restorative justice, the element figured both as an objective and as a matter for research. Researchers throughout their work and their writings grasped with the issue of what is to be repaired (how and by whom), if anything at all, or eventually if nothing is too be repaired then what else must happen. They also grasped both with the differences in the restorative approach with the approach of other types of intervention, and with the difference of these types of restorative interventions with more mainstream restorative interventions. In what follows, I amplify and complement these accounts.

The focus of restoration throughout the project has not been on a past orientation as usually to be found in restorative approaches but towards the paradoxical notion of 'restoring the future' - making arrangements for better living together - rather the restoration of damage with a view at the past. This differentiates the interventions from more truth or fact finding initiatives of past harms. The attempt has generally been on enabling or contributing to people living together and expanding on those convivial practices. When conflicts have been concretely addressed, they were 'living on' conflicts, and the intention was to elucidate perspectives that will contribute to community's abilities to work through those conflicts. At a first sight restoration of communication, trust and cooperation rather than restoration of damage or harm, seem to be a major aim of the interventions throughout the project. The faith of this approach on setting up dialogic meetings and personalised encounters between people who either do not meet, or who hold stereotypical and categorical images and misconceptions about each other, relies on the idea that such meetings will lead people to acquire a sense of complexity which leads to change the representation of the 'other', promote more accurate perceptions, disable stereotypes and misattributions, and eventually instigate common and collective actions. The assumption is that dialogue can provide safe environments for people in conflicts to share their personal stories, pains and strengths with an equal chance for every participant to talk, to listen and be listened to. If the participants move from their initial positions and better understand the underlying causes of the other side's decisions, dilemmas and perspectives, then the result is a more accepting and less labelling community, towards a community that focuses on articulating more clearly their voices, experiences, needs and move towards future and collective collaboration.

In several of the practices, where either a concrete, individual conflict or harm was missing or not articulated, or where the parties were not both present given the lack of 'authority' of the researchers and informality of the intervention (no shadow of the law and coercion threat in the background), role-playing was used and artificial scenarios (with a link to the real situations nevertheless) were used as a way to increase capacities and to learn tools and techniques of conflict handling. The efficacy of the role-play and construction of artificial conflict for learning conflict handling are difficult to assess and measure. The emphasis of such practices is on listening attentively, getting into the shoes of the other, reflection on the own position and on the wider and deeper meaning of the conflict. Given the need in such communities for clarification of norms

and values, and fear and distrust about the others, any encounter can be argued to be productive in so far as it reduces the social distance making people a little more 'real' for each other, and contributes to the creation of common lifeworld. This is not a guarantee of a peaceful coexistence but it need not be either. We can argue that it can instead provide more tools for all sides towards a more 'real' coexistence and the sheer presence of people of different backgrounds in workshops and initiatives sends signals of a good intention for bridging differences, or at least articulating one's own and understanding the others'.

Arguably any position of engagement and curiosity is a better signal than one of indifference, although this cannot be overstated. Literature also shows that indifference can also function as a sign of respect in living together and that contact does not always lead to dropping of enmities, sometimes it can even deepen them. The idea that face-to-face encounters will change the representation of the other in a positive way is a deep assumption of restorative justice, often an unchallenged assumption nevertheless. Literature on conviviality (living together) challenges the assumption that contact will necessarily lead to positive views about the other. The other thing to consider is whether in the light of fully voluntary participation always a certain predisposed people participate at events, people who are already more inclined to social contact and to being open to dialogue with others.

The way dialogue is often used sounds often innocent and almost apolitical. Who would be against it and why would people be unable to engage in dialogue anyway? Distinguishing discussion from dialogue, Paolo Freire (1970) had characterised the act of naming one's experience and placing that voiced experience in context as the essence of dialogue. Dialogue is therefore a type of communication that can awaken consciousness and prepare people for collective action. This definition points to dialogue as anything but an innocent notion. Another reminder is Christie's argument that 'conflict-participation' can lead to norm-clarification, defined as a "continuous discussion of what represents the law of the land" (Christie 1977, 8). Most restorative justice scholars appear to value the restorative dialogue not as an end in itself, but as the best means of achieving certain goals (such as settlements between disputants, repairing harm, victim satisfaction and offender rehabilitation) (for example Walgrave 2008). Yet, accordingly to the 'conflict-participation' idea of Christie, even if no restorative 'outcomes' are attained (no agreement reached, no harm repaired, no reconciliation achieved) the participatory process is still the best way of 'doing justice'

because it restores to people control over their own conflicts. And according to Pavlich (1996a, 152), who envisions restorative interventions as forums designed to bring conflicts to the forefront of political theatre, conflict can be an important way of locating and communicating contradictions, inequities and injustices that affect particular people in given power-knowledge-subjectivity formations. This designation of Pavlich of conflict-forums as a political theatre is useful in so far as it highlights the difficulty of engagement with processes of dialogical 'norm-clarification': often lack of engagement is not because people are not familiar with such ideas or practices, but because this is not in their interest, and they will show resistance to such ideas and practices rather than upfront embrace them. At the same time, it also highlights the need to move in such settings of complex power constellations beyond the element of reparation towards more transformative objectives and strategies.

But what is the role of a mediator under a transformative agenda? The researchers in the Hungarian site have engaged in deep thinking and articulation in relation to the 'culture of silence', and to their role as challengers of such culture. We saw how the general attitude in town towards conflict-talk (talking about and around conflicts) was one of silence and avoidance. In case of conflict, they found that judgment of right and wrong and allocating blame were the most common attitudes, while talking over, clarifying, and searching for solutions was not the default practice, and hard to instigate. The 'culture of silence' that was identified seemed to lead to stereotypical depictions and hardening of homogeneous entities within the town, and as we know prejudices and negative labels are both causes and consequences of growing social tensions.

In the cases when there is a real and harmful conflict, but when the authority and legitimacy of the researchers is impeding that the parties come together and search for ways of restoration are interesting to consider from a restorative idea. The conflicts that were identified were of real consequence for the community, and especially harmful for certain groups, thus restoration could have been meaningful if able to unfold. But researchers found it difficult to involve all the parties, especially because the referrals were precarious. There was no authoritative institution to refer (no child welfare agency, no probation office or court), but only engaged or concerned citizens (often there were many ambiguous referrals). Once, the referrals were made, the cases were assessed for 'restorative-compatibility' ('living-on' cases, room for building bridges, no high-risk to split the community and no hopeless cases). The parties to be

invited clearly rejected the offer in many cases, as that implied accepting first having harmed the other party and secondly taking responsibility. With regard to responsibility-taking, for example researchers also highlighted how even in the rare cases of responsibility-taking of someone belonging to another group, within the community this can be seen as a 'betrayal' against our group, thus steps towards the 'other group' are not usually welcomed and encouraged and there is a lot of in-group condemnation.

Researchers questioned their own task in these cases. They used the local narratives and did not attempt a fact searching or truth searching, but only staging of perspectives. The boundaries of competence and legitimacy were constantly an issue to take into consideration. As mentioned before there was also a fundamental clash between the positions of researcher and mediator, where one is supposed to take a more active role, and the other a rather more passive one. Different from the criminal justice cases, it is also not expectable to solve the conflict of offer agreements or come up with a common narrative of the conflict in communities. The difference with cases handled within the criminal justice system is that community people are constantly in interaction, and they always have confrontation.

Furthermore, the role of the researchers as outsiders was questioned, despite their long engagement with the people in the town. The cases they identified and dealt with mostly had to do with exclusion, refusal, stereotypes, injustice towards mainly the Roma population, and therefore an invitation to tackle the conflict cannot be perceived as neutral or innocent and goes beyond concrete cases into the structural and long-term relations within the community. While researchers seem to question the way communication functions in the town which hardens positions and damages relations, they ignore the passionate libidinal investments for collective identities that people have and like to keep, and the structural arrangements which they do not intend to change easily, certainly not in the name of peaceful dialogue. Community mediation needs a huge presence in the field because building trust and adapting ones' methods is crucial. But that same process and the close proximity and relation to the people makes it a challenge to maintain 'impartiality'. If restoration to existing dynamics is the role for restorative justice, there is little real use for such practices in communities of sharp inequalities. If instead transformation of such dynamics is the goal, there is plenty of work to do, but it is not easy to reconcile such an objective with a restorative intervention. The core of the intervention in the research site in Hungary was 'dialogue

transformation', challenging the typical communication patterns of local interactions. Researchers conclude that in such interventions, restorative methods have a lot to learn from community building work.

We can for example refer here to the more explicitly political role of community building work (ex. Bassena in Vienna). The element of reparation is completely missing in the work objectives of Bassena, given that they do not work at all with conflict cases. The lack of a concrete conflict, and also the lack of an articulation of harm makes it difficult to articulate reparative measures. We already mentioned how on the part of the Bassena nurturing conflicts versus pacification was central. To understand what is meant by nurturing conflicts versus pacification, we can consider a conflict around the issue of 'carpet washing' in the housing estate, where we see how different ways to tackle the issue have different objectives and can lead to different effects. Carpet washing on the side of some women of migration background can create tensions in the neighbourhood because the laundry rooms are not held up to the task and the drying of the carpets can destroy the walls. Being a semi-public type of conflict, by the side of wohnpartner this conflict among inhabitants would have been handled in terms of a complaint, and the rules would have been emphasised thus the action prohibited. When the issue was tackled by Bassena instead, the team decided to support the women who were trying to wash their carpets trying to argue for the installation of a separate laundry room, where carpets should be washed. In order to gain public support for this agenda, Bassena organised a carpet-washing-plant, in the morning of the big party celebrating the renovation of the housing estate. A few women gathered to wash their carpets on the ground in the biggest square of the housing estate, and put them up on the fence of the neighbouring school for drying. They afterwards collected signatures of other residents in support of their petition. This action itself, carried out visibly in the public space of the yard steered up the emotions of less supportive residents, who deeply rejected the action and directed complaints towards the community centre. These residents and the involved women now met for the first time, in order to discuss what had happened.

Another way to understand the difference between collective action and individualisation of conflicts and between agitation versus pacification would be if we consider how the poor quality of noise insulation lies at the bottom of many of the housing estates' conflicts. Wohnpartner receives a complaint about neighbours and mediates details regarding conduct (how should a child behave, what slippers should

they wear, what hours should they move around the house and so on). If on the other hand, the same type of conflicts would be tackled by community work, it is very likely that tenants would get together to declare that their situation was unbearable and insufferable and that something had to be done by the landlord, the City of Vienna, if they would in fact instigate a radical collective action demanding structural improvements. The chances that this would succeed are very dim, but this would change the whole framing of the issue and affect the relations within the housing estate in a different way, from one complaining against the other, who then complies to certain constraints and rules of conduct, towards collective actions where all the inhabitants are on the same side and the one complained about is the City of Vienna. Clearly compromise is better than ongoing war between neighbours, but maybe the war between neighbours can lead to collective actions if not too quickly subdued. Community workers guide people from 'complaining', or sharing their frustration and anger, towards an assessment of the resources which they have at hand in order to change the situation.

We can also compare directly two similar initiatives by the two organisations, the mobile 'Office for good ideas' (Amt für gute Ideen), staffed with two members of the Bassena team, who spend time in the courtyards and streets of the housing estate, attracting attention with a shopping trolley decorated with plastic flower chains and involving passers-by in conversations, with the initiative of wohnpartner '*wohnpartner on the move*', an initiative taking place during the summer months, where a team of two persons walks through the estates and the various court-yards, signalling their readiness to talk, to listen to requests and complaints and just to chat. Exactly the same tool with very different purpose, one focuses on the ideas of the inhabitants, the other focusing on their complaints.

Contrasting the work of wohnpartner with the work done by the project researchers, we can see how the focus moves from rules of conduct to norm-clarification and lifeworld values. The position of wohnpartner as establishing the house-rules, and monitoring the rules of behaviour pertaining to the obligations of a tenant can bring parties to an adversarial position, which will lead to feelings of defence and attack, where people are complainants or complained about. On the other hand, in the restorative intervention the lack of a complained about and a complainant and the lack of authority gives an advantage to bridge the adversarial positions. Both the cases of Graffiti and Women's café, mentioned above, had objectives that went beyond

'promoting good neighbourhood', which as I argued before stands rather for a 'manageable neighbourhood'. The activities promoted by the researcher on the other hand gave the floor for more substantial elaborations of what constitutes a good neighbourhood, where people shared their views out of a pre-established or framed positions, and without a learned code, the sheer unpredictability and ambivalence of the interventions being their strengths rather that their weakness.

1.3. Concluding thoughts

In PART ONE, I grasped with the set of questions that relate to an application of restorative approaches at a distance from the criminal justice system (such as in the ALTERNATIVE project). I argued that the best way to think about restorative justice that would take seriously its many accounts is through the notion of discourse. Presenting restorative justice as a 'struggle of discourses' has the advantage that on the one hand respects the different positions in the field, while articulating a positionality of one's own. Additionally, I argued that we need to change the question from 'what is restorative justice?' to 'what is restorative justice about?', a question which may even sound older and superseded, but if this is the case then even if it may look so, a return to it is necessary. Once we pose that question, we realise that the discourse of restorative justice is about is about how to respond to wrongdoing. This focus helps us to understand better what restorative justice means as an idea and practice in relation to other ideas, practices and institutions, and to the social, economic and political context, and to re-examine our assumptions about justice.

In viewing restorative justice as a discourse that attempts to answer the question 'what should our response to wrongdoing be?', I proposed the three core elements' characterisation of restorative justice proposed by Christa Pelikan which I think creates a rich mode of reflection and analysis while going beyond a mere enumeration of features. Articulating these features clearly (rather than simply mentioning them) is also extremely useful in understanding the tension between restorative justice being proposed as a promising vision of justice and human relations, and by the critique that classifies it as another tool of the neoliberal vision. The features being lifeworld, participation and reparation are highly intertwined. Only the perception of an act of wrongdoing as an interaction of doer and done-to (lifeworld) provides the ground for the active involvement of those concerned and affected to enter a dialogue

(participation). This exchange in turn evolves around setting right the wrong that has occurred and its consequences (reparation). The restorative justice process is conceived as the means that brings us to the event itself and although this is not easy to do, I hoped to indicate the important scope for social dialogue around the boundaries of wrongfulness, which restorative justice can promote. Additionally, I presented several arguments for the element of participation, hoping to show that the element has more than instrumental potential as it is usually argued, but also to show that participation without attention to social justice will not suffice. Finally, regarding the element of reparation I argued that reparation directs the focus on the obligations to the victim and to the society, as a sign of 'counterfactual stabilisation of the norm' where censure and communication of the norm (mobilisation of the law) are more important than the level of the sanction and its execution.

Although the characterisation by Pelikan is fairly representative of the discursive elements of restorative justice, I proposed one additional element which needs to be considered seriously and that's the element of transformation[43], an element which brings considerations about social justice central stage to the criminal justice system and restorative justice practices. Only considered holistically can justice be decoupled from the notions of punishment and procedure. I presented arguments from restorative justice scholars that propagate a transformative or social justice version of restorative justice, and scholars that while not rejecting these claims propagate a clearer 'division of labour' among institutions and agendas and therefore a narrower scope for restorative justice. I argued in support of the transformative ambitions of restorative justice, by discussing both the rise of the criminal justice system and its current role within neoliberalism. My claim is that punishment and penality in general are more than just reactions to crime, or even attempts to reduce crime, or deliver justice, being among other things, the result of struggles for authority, for control over non-conformers and of political reactions to social-economic systems. Casting a look back at the history of the modern state and rise of its penal institutions, I argue, is an important reminder of how and why it is impossible to separate the political function of penal institutions from its justice functions, taking seriously Foucault's (1975/1995) caution to take penal practices less as a consequence of juridical theories than as a

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[43] The notion of transformation can be understood both as transformation as change (disruption of current power relations) and transformation as future (restoring the future). In part one the first sense is discussed in relation to a social justice agenda, and the in the second part the second sense is discussed within a justice and security agenda.

chapter in political anatomy. Despite the importance of these arguments, nevertheless I argued for a cautious approach towards both denials of the link of penal justice and social justice, and claims that crime and punishment are only the result of socio-economic inequalities.

The role of restorative justice becomes thus crucial in maintaining a balance between lifeworld realities and political awareness, between single cases and the large societal context. In addressing deeply rooted structural violence, we have to develop the ability to maintain balance between the specificity of an act, and the immensity of the context in which it occurred, an ability which calls for a 'dual thinking' in which we condemn the violence but also ask how it came about. As such, restorative justice can promote a certain degree of reflection that leads to new forms of social action and social co-responsibility that go beyond the immediate conflict, by creating and staging forums of endless processes of discussion, bringing conflicts to the forefront of the political scene.

In order to understand how the normative ideas are translated into actions, I traced the elements of lifeworld, participation, reparation and transformation throughout the project. With regard to the notion of lifeworld, what is worth saying is that it is difficult to embrace simply an ethnographic understanding of lifeworld as life experiences or contexts that unfold themselves in front of researcher's eyes. There are instead strategies of multiplying, contextualising, framing, contesting and containing lifeworlds, strategies which hint towards a political aspect of the notion. The contextualisation turned out to be extremely important to understand not only the background of the lifeworlds in the sites but also how it is difficult (in fact impossible) to separate lifeworld from context, how they influence and constitute each other, carry each other back and forth, and amplify or challenge each other. The multiplication of lifeworlds, where everyone had a chance at either creating a narrative or contesting one, made it impossible (and at the same time difficult) for the researchers to classify or categorise people and events too easily, which is an indication of how a focus on lifeworld in itself can counteract tendencies of totalising views, identities and positions. From a focus of reconstructing the 'real story', this mapping of the 'struggle of discourses' helped the researchers to identify the power-relationships within the community.

Both these strategies (contextualising and multiplying) were on the one hand a clear indication of the importance allocated to the 'thickness' of the notion of *lifeworld*

in research and action, especially when working around notions of interculturality and conflict, but on the other hand they also indicated the impossibility of using the notion of lifeworld as a revealing scene, the un-mediated lifeworld that unfolds itself before the researcher and speaks for itself. It indicated how the notion has to be framed, contested and contained by social agents. Throughout the research, we saw how strategies of framing, contesting or containing lifeworlds are used by the different agents with different objectives and different effects. We saw how the ways subjectivities (ex. complainants) are framed influenced the expectations and the effects of dialogue. At the same time, a focus on rules also provides a framing of what common living means in a city. We also came across several strategies of the social workers to frame or reframe conflicts, like 'breaking down' complaints or putting boundaries to what can be articulated, and of residents to follow or contest such framings. The most clear difference between approaches was visible through the different ways to provide 'conflict containment'.

What is important from a restorative justice point of view are two things that can be discussed. One is the advantage of resisting already fixed and established positions through the notion of lifeworld. Here one does not enter a dialogue as a 'victim' or 'offender'. Nevertheless, it is not always easy to imagine in the absence both of established subject positions or absence of the shadow of coercion, how to invite and whom to invite into dialogue, something which challenges the notion of ownership of conflicts and responsibility-taking. This is not a pessimistic conclusion, it simply signals that some thinking has to be invested in this issue during any restorative intervention.

The other question to consider is how to conceive of the boundary between wrongdoing and general human conflict, and what is restorative justice to address in the advent of this blurring of the boundaries. To simplify with the example of divorce, certainly restorative justice has not much to say in case of separation due to disagreement between partners, but it could have a say in case of violence or harm between them (Llewelyn and Howse 1999). The central word to consider here is justice. Restorative justice seems to be able to have a say whenever justice or injustice is involved, and the way to distinguish a wrong from a conflict cannot be therefore the sheer fact of a legal definition of one or the other (at least not if we would like to challenge the criminalisation of certain acts or propose the criminalisation of other harmful acts), but whether there are considerations on justice to be made. The research

sites and the cases dealt with show a potential for social dialogue on the boundaries of wrongdoing itself, which is worth pursuing, but which is not an easy task. Does restorative justice nevertheless have anything to offer when harm is not articulated, by at least one of the parties? What is the role of mediators or facilitators in such cases, must they identify and uncover harm themselves or only deal with what comes to them? These are important questions for the field once it starts expanding beyond the borders of the criminal justice system.

The other element considered in-depth was the notion of participation which during the project was valued and promoted as an end in itself, and this went beyond an instrumental understanding of the notion. At the same time, although participation was a normative concept it was also a concept to be understood and researched, thus allowing for ambivalences, limitations, that could eventually be questioned, challenged and transformed. I argued that participation cannot have any sense as a total or unitary notion, it rather comes with qualifications: participation how, what for, in whose interest and with what effects. The main objectives which led to the promotion of participation by the different actors in the two sites (with different degrees) were mainly: because it was believed that conflicts and localities were the ownership of the people, because it was believed that participation could help solve problems or handle concrete issues, could contribute to counter racism, exclusion, prejudice and lead to togetherness, and because participation was thought to promote a certain political consciousness. I discussed the data introducing the notion of 'conflict-participation' which leads towards conflict nurturing (or agitation) as compared to 'conflict-management' that leads towards pacification. At the same time, the important question that came up regarding the notion of participation is whether participation can be used to educate, raise capacities, by creating role-playing, laboratory conditions or whether participation must always be coupled to a real lifeworld condition and real ownership of conflicts. I argued that there are new insights to be gained when there is a conflictual situation, a public conflict, a common conflict (but no concrete conflict with clear stakeholders), which comes close to an idea of lifeworld-sharing or norm-clarification (boundary-making and unmaking).

I then discussed the implications for moving towards a more 'conflictual' idea of participation, especially in localities where residents are resistant to norm-clarification or dialogue, as they do not want to unmake their social boundaries. I identified a naïve sort of participation that does not disrupt social boundaries versus a more conflictual

idea of participation that questions the power relations. Not an innocent notion, participation can be both a cunning rhetoric and strategy that leads to a pre-established consensus and reinforces the existing power relations, or it can be disruptive, create dissensus and challenge the existing power relations. The fact that the notion has become well-accepted can both undermine and highlight its subversive potential. We can even argue on the one hand that the term has been appropriated as a technique of governance in order to give it a new meaning with a different message, one opposed to the original, so participation as non-participation. On the other hand, we can argue that for any institution or initiative, the recognition that involving its subjects in decision-making will improve the efficiency of its governance is a tacit admission of that institution's dependence upon the agency of its subjects. While examining the small scale, everyday practices of participation we have to understand how they fit within larger institutional and organisational strategies, and how these strategies fit within still larger national and international frameworks.

I also reflected on the position of the researcher as an uninvited outsider who has the potential to disrupt local dynamics and in rearranging the social forces, on the conflict between the position of a researcher and mediator, and on the impossibility of the position of neutrality. To think of the key role of the mediator as an instigator of change but not as an interest representing political agent (which the researchers are keen to dissociate themselves from), we can think of a designation of Deleuze and Guattari of 'minor' politics interpreted by Rose (1999, 279-280) as one that does not seek to "identify particular agents of a radical politics - be they classes, races, or genders - or to distinguish once and for all the forces of reaction from those of progression in terms of fixed identities. Rather one would examine the ways in which creativity arises out of the situation human beings engage in particular relations of force and meaning, and what is made out of the possibilities of that location. These minor engagements do not have the arrogance of programmatic politics-perhaps even refuse their designation as politics at all. They are cautious, modest, pragmatic, experimental, stuttering, tentative. They are concerned with the here and now, not with some fantasized future, with small concerns, petty details, the everyday and not the transcendental."

Again, in the absence of coercion and legitimacy of intervention, the question of participation becomes salient especially when parties are not interested to participate. A process without coercion comes in other words without guarantees, but these are also instants when it becomes the most challenging. It becomes important therefore to

move away from romanticised notions of participation into more proactive, conflictual models of engagement. Starting from the observations and insights gained in the action research sites, we can come up with a few suggestions to how participation can be rethought within restorative justice to challenge the tendencies of promoting participation as consensus or participation as non-participation.

First of all, the restorative interventions in different settings depends on the nature of local relationships and resources (social, cultural, material and economic). Comparing the sites of Vienna and Hungary, Ragazzi (Deliverable 8.5) comes up with the assessment that strong leadership and steering by public institutions combined with effective socio-economic redistributive policies are associated with lower levels of active participation as in the case of Vienna. He argues that when the public actors are effectively hegemonic, the restorative approach can act as a complementary corrective, contributing (through improved communication and dialogue) towards a more effective representation of interests and identities of stakeholders, including a partial re-appropriation of conflicts. Conversely, higher levels of active participation and mobilisation in the presence of weaker social public provision are potentially open to exclusionary practices, as in the case of Hungary. In these more competitive constellations, he argues, the restorative approach may contribute towards strengthening social solidarity between stakeholders and a higher sense of fairness in the process. Furthermore, from the data, we gather that for participation to be meaningful, people need to have real choices or alternatives. If no alternative is presented, it is doubtful what people are deliberating about or participating in, and in whose benefit. To be a little more cynical, we can use Emma Goldman's famous quote on voting and replace it with participation: If participation really changed anything it would have been illegal.

Challenging the fact that conflicts ought to be solved we should instead of conflict management or conflict solving, use the term 'conflict-participation'. This means that we have to promote rather the idea of a 'conflictual participation', as any form of a productive engagement that disturb the consensus or status quo. As we also saw from our sites, and as we know from the main assumptions of restorative justice, the idea of participation connotes that if everybody were included and would participate, then consensus could be reached and full democracy realised. Reminiscent of Habermas' 'ideal speech situation', this relies on an idea of participation that offers a space in which unheard and all voices are listened to. Under this situation, power relations

would be completely suspended, thus giving every participant, the freedom to speak freely and have their views listened to and taken seriously. Eventually, all the participants would come to a consensus about the best course of action, having taken everyone's views into account and rationally debated the pros and cons of every possible course of action. This relies on an associative and liberal view of politics as acting in concert and pluralism having to do with multiplicity-with the recognition of plurality. Chantal Mouffe[44] calls this a pluralism without antagonism in the sense that it acknowledges that there are different points of view, different interests, different values, and that we will never be able to embrace all of them, therefore the need for putting ourselves in the shoes of other people, imagining that when all these values are put together, they constitute a harmonious ensemble, where all play their part.

Rather on the opposite, Mouffe argues that the dimension of the political is linked to the dimension of conflict that exists in human societies, the ever-present possibility of ineradicable antagonism. This means that a consensus without exclusion, a form of consensus beyond hegemony, beyond sovereignty, will always be unavailable. Moving beyond the idea of 'antagonism proper' (the friend and enemy relation), she calls these relations 'agonistic'. In this case, we are faced not with the friend-enemy relation, but with a relation of adversaries or 'friendly enemies', in the sense that they have a symbolic space in common. Therefore, there can exist between them call a 'conflictual consensus'. Mouffe argues that 'agonism' as a constructive form of political conflict might offer an opportunity for a constructive expression of disagreements. This would happen by creating institutions that will allow for conflicts (between adversaries not enemies). If that agonistic form is not available, she argues that it is very likely that when conflicts emerge, they are going to take an antagonistic form. This dissociative view of the political, which Mouffe identifies with, has to do with the dimension of conflict, the dimension of antagonism and hostility that exists in human societies. It is an idea that pluralism necessarily implies antagonism, because all these different and multiple views cannot be reconciled. Some of them require the negation of other views. It also means that there will necessarily be a moment of exclusion and that some alternatives will not be adopted.

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[44] See Markus Miessen (2011) The nightmare of participation. Sternberg Press, CHAPTER 6 Democracy Revisited (In Conversation with Chantal Mouffe)

Pavlich (2002a) had argued that for community justice to present a true alternative would require a process that among other things does not individualise conflicts, but takes into account their aetiology (wider social inequalities); does not ignore social distances between conflicting parties in their environments; does not bias disputants towards a consensus or an elimination of difference; and does not lean toward restoration of 'community order'. Later, writing in the context of restorative justice, Pavlich (2005) pointed out that viewing restorative justice as a way of repairing harms and redressing wrongs, which are defined from within the status quo, seriously compromises the potential of restorative justice to bring about meaningful social changes. Narrowly conceived, restorative justice can hardly challenge the norms which define what represents 'wrongs' and 'harm' in a particular context, and can contribute towards the containment of social conflict that might otherwise encourage political resistance to a certain unjust political order. We need to move thus from closed and predictable processes that try to manage situations towards 'open-ended' and unpredictable processes with a transformative agenda.

Christie's conceptualisation of conflict and his approach to conflict-handling seems to promise a possibility of a restorative justice process which is less biased towards peaceful resolutions. Instead of aiming at speedily neutralising potentially disruptive disputes, it calls for cultivating and nurturing conflicts. Instead of solidifying and strengthening normative standards and thereby upholding and preserving the presumed consensual social order, it invites opening up political debates of contentious issues - debates which may potentially lead to collective challenges to the status quo and social changes.

Finally, I dealt with the elements of reparation and transformation together. The main question to be asked was what is repaired or restored in such interventions and how to ensure responsibility and accountability? First of all, I argued that the restoration of communication, trust and cooperation rather than restoration of damage or harm, seems to be a major aim and result of the interventions throughout the project. Second, the focus of restoration throughout the project has not been on a past orientation as usually to be found in restorative approaches but towards the paradoxical notion of 'restoring the future': making arrangements for better living together. Conflict therefore is understood as an important way of locating and communicating contradictions, inequities and injustices that affect people in given power constellations. Mikhail Bakhtin (1981) has argued that an achieved unification

of the diversity of voices should always be viewed with suspicion in so far as it signals that power has been imposed somewhere, that is, dialogue has been blocked by a monologising or hegemonic force. I therefore argued that we need to move from the feature of reparation towards the feature of transformation, but also highlighted some difficulties this notion brings to the idea of neutrality, mediation, conflict-ownership, responsibility taking, subject positions, individual versus collective approach. I concluded saying that restorative justice should capitalise on the notion of 'norm-clarification' and embrace unpredictable and ambivalent intervention with a potential of leading towards transformation.

We need therefore to move beyond an emphasis on outcomes and efficiency (neoliberal demands). This may involve a shift away from the emphasis on restorative 'outcomes' in evaluating restorative programmes, towards the restorative process and its potential (see Llewelyn and Howse 1999). This evaluation register would take into account the extent to which the restorative process has staged multiple perspectives and clarified different social norms among the members of a community, the degree to which the process has uncovered inequalities which might have generated the conflict, the effectiveness of the process in 'nurturing' the conflict, and its ability to create collective and participatory actions that aim to challenge the status quo and transform the dynamics. Arguably the project only served as a starting point towards these proposals, indicating the ambiguities, ambivalences and possible paths, but it requires a political and committed agenda to design projects and interventions that take these proposals on board and act fully on them.

PART TWO. RESTORATIVE JUSTICE BETWEEN JUSTICE AND SECURITY IN INTERCULTURAL SETTINGS

PART TWO of this deliverable tackle a set of questions on the ways in which we can rethink restorative justice towards becoming an alternative to the security discourse, especially in intercultural contexts.

The terminology 'between' justice and security already hints at two possibilities: both a reconciliation and an inevitable tension between the two notions. Restorative justice has been proposed within the project as a counter-security approach in intercultural settings, arguing that it was necessary to move away or at least correct an

idea of security based on an excessive focus on technology, surveillance and control which amplified instead feelings of insecurity, towards an idea of 'deep' security, a security that is less paranoiac and nourishes human relations through participatory practices, encounters and dialogue. It was also argued that the heightened and obsessive concern about security has put at risk other values, principles and concerns, of which justice was argued to be the most important and therefore the project proposed a need for balance between justice and security. It was further argued that the discourses of (in)security have attributed inevitable social conflicts to intercultural societies which has led to a 'culturalisation' of conflicts, and when these conflicts have arisen, immunitary mechanisms have been created for social groups to coexist (like gated communities, fences, membership areas). The project intended both to understand and challenge such a culturalised framing of conflicts, through social justice oriented, participatory and communication-based approaches to the handling of conflicts.

Positioning a field and discourse around the matter of 'interculturality', brings restorative justice in relation with two discourses which are in tension with each other: the security discourse and the (social) justice discourse. Therefore it is worth to investigate their discursive contours and intersections, and the ways in which they are cast in cultural terms. At the same time, even with regard to its position within the narrow field of criminology, restorative justice has to take into account the current trends in crime control which point to a move towards a merging of the justice agenda with a security discourse, and reflect on its own role in either reconciling or making visible the tension between justice and security. This part is organised under two main headings: the theoretical framework and action research results. Under the theoretical framework, I trace three main discursive developments: the merging of culture with security discourses, the merging of social justice with a politics of difference and the merging of punishment and justice with the security agenda. I think of the implications each of these trends and insights have for restorative justice. Under the action research section, I reflect on the way the notions of interculturality, justice and security are invoked, negotiated and contested in the action research settings, as well as on some of the implications for restorative justice's contribution to intercultural settings.

2.1. Theoretical framework

2.1.1. Security under biopolitical governmentality

There are many schools of thought and ways to talk about security. At the same time there are many issues that can be emphasised regarding security. Therefore it must be made clear that the sections here indicate necessarily a limited perspective and selected issues of concern. A broad mapping of the security discourse, indicates that the two most striking things in the post-Cold War era have been both a convergence of external security with internal security (leading therefore to a merging of security with notions of culture and identity), and the constitution of (in)security increasingly in terms of risk (adding to the usual frame of threat). The first tendency is visible especially under the securitisation of migration, and the second tendency under the routinised everyday practices and apparatuses of security. Both these developments can be understood under the framework of biopolitical governmentality, terms coined by Michel Foucault.

The so-called 'cultural turn' is not exclusive to the security discourse, but as I will argue here, this merging is particularly worrying. A large number of scholars have interpreted the cultural turn or the new 'culturalisation of politics' as a symptom of a 'new racism', the defining features of which are that cultural differences are incommensurable and incommunicable, that relations between cultures are by nature hostile and mutually destructive, and that cultural pluralism will lead inevitably to conflict (Stockle 1995). I would like to argue that the best way to understand this new racism in current Europe is by rethinking the reading of racism made by Michel Foucault. This reading is inextricable from the concept of biopower, a concept that refers to the intense and direct involvement established between political dynamics and human life, making the preservation of human life the primary objective of political action. Biopolitics then is a politics concerned with the life of a population, where population as a biological and vital species is the new political object of governance (Foucault 2008). Considered to be a natural entity, which escapes the sovereign's direct action and intervention, population comes to be acted upon in terms of apparatuses (*dispositif*) of security.[45]

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[45] By the term apparatus, Foucault (1980b, 194) means the network or system of relations that can be established among these heterogeneous and diverse phenomena: "discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions", which are both linguistic, extra-linguistic and non-linguistic.

Under this governmental mode of power that has population as its object and the apparatuses of security as its technique, we see the emergence of a completely different problem that is no longer of fixing and demarcating the territory, but of "allowing circulations to take place, of controlling them, sifting the good and the bad, ensuring that things are always in movement, constantly moving around, continually going from one point to another, in a way that cancels out the inherent dangers of this circulation" (Foucault 2007, 65). The field of interventions for security dispositive seems to be organised around the question of how should things circulate or not circulate? It is not surprising then that security and migration (a movement or circulation of people) are tightly linked together. But how can we explain its current obsessive rise and its merging with cultural difference or in other words why this fast return of racism (as culturally disguised)?

Biopower as a form of power promoting life could not have been integrated into the technologies of other forms of power without introducing means of division and hierarchisation. The mission to cultivate life (the mission of modern biopolitics) entails the imperative to repress or destroy 'the other' however that is defined: the abnormal, the deviant, the diseased, the immigrant and so on. Foucault argues that as biopower developed to ensure the survival of the population as a whole, the modern western states have become racist, appealing to a clear distinction between a homogeneous 'us' and a heteronomous Other, mobilising entire populations against races perceived as threats to their purity and their health. Racism is thus here perceived not as an aberration but as a thoroughly modern phenomenon. As Shein (2004, 6) notes, "viewing enemies as biological dangers is crucial to Foucault's argument regarding racism and biopower because it explains the identification of external and internal threats to the population." Killing one's enemies is therefore no longer only a right (as it was under sovereign power), but rather an obligation because they are thought to impede the survival of the organism. Modern racism, according to Foucault, is designed to manage a population, a means of targeting techniques of exclusion and normalisation towards whomever is not compatible with prevailing system of norms, and therefore it is highly unlikely that simple anti-racist strategies will be effective. It is "a racism that society will direct against itself, against its own elements and its own products. This is an internal racism of permanent purification, and it will become one of the basic dimensions of social normalisation" *(Foucault 2003, 61-62).* The merging

of external security with internal security is also not a surprising development according to this interpretation.

The Italian philosopher Roberto Esposito (2008, 2012) has complemented the analysis of biopower with the 'paradigm of immunisation'.[46] The notion 'immunity' encompasses the diverse attempts that are made to draw a mark between self and other, communal and 'foreign', normal and pathological, order and disorder in times of crisis and anxiety about the coherence of self and community. According to Esposito, while immunity is necessary for the protection of life and safeguards the individual and collective body, if carried past a threshold, it becomes autoimmunity and ends up slowing down and eventually destroying its very growth and development. In other words "raising society's threshold of attention with regard to risk means blocking the growth of the social body or even causing it to regress to its primitive state. A surplus of defence with regard to elements outside the organism turns against the organism, with potential lethal effects" (2012, 62). Moving from the realm of disease to the realm of immigration confirms this: the fact that the growing flows of immigrants are thought to be one of the worst dangers for our societies also suggests how central the immunitary question is becoming. New walls and new dividing lines are erected against something that seems to threaten our biological, social and environmental identity. Biopolitics thus as technologies of governing the population according to the administrative imperative of optimising and improving the health and welfare of populations, saturates all the important political sectors: war against terrorism, mass migration, public health, measures of security, emergency legislation and so on (Dauphinee and Masters 2007, Dillon 1995, Dillon and Lobo-Guerrero 2008, Duffield 2001, Esposito 2008, Hardt and Negri 2000).

In reflecting on the fact that security has become an obsession, Esposito (2012) points out that we are not simply dealing with an increase in the attention we pay to danger, rather it is as if the usual relation between danger and protection has been reversed. No longer does the presence of risk generates the demand for protection but

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[46] Esposito's particular thesis is that immunity is a reaction to community. Community for him refers to a common *munus*, which can mean both gift and obligation toward another. This is an explicit attempt to counter the definitions of community as something which we share and have in common, or a common belonging, identity and ownership. Defined as a common obligation towards one another, as a giving up of the proper, community exposes each of us to a contact with another, in the face of which a process of immunisation is activated. Esposito argues that "if *communitas* binds individuals to something that pushes them beyond themselves, *immunitas* reconstructs their identity by protecting them from a risky contiguity with the other, relieving them of every obligation towards the other" (2012, 49).

the demand for protection artificially generates the sensation of risk. This has been pushed to the extreme by the idea of a preventive war, where war is no longer the exception, a last resort, or the ever present opposite of existence but the sole form of global co-existence, leading to a complete superimposition of opposites, war and peace, attack and defense, life and death, in which each weights more and more on each other. In this anthropological frame-dominated by the feeling of fear and persistence of insecurity-politics, fear, argues Esposito, becomes the only glue that holds together society.

Reading security as an apparatus in a modern biopolitical governmental frame means understanding security as a constitutive feature of Western democracies (instead of framing security as outside politics, or as an exception). The governmentality approach emphasises how the exception to the rule lies not outside the modern state, but is rather well embedded within it[47] (Ewald 1991, Pasquino 2003). The implications of this analysis are that if security apparatus is a constitutive element of our democracies instead of an exceptional feature, and if racism too is part of this dispositive as a biopolitical technology, the options for countering some of its detrimental effects and the role of restorative justice thereof must be adequately thought and understood, but it is unlikely that simple cosmetic solutions will suffice. While the reasons for emphasising justice under the current constellation of forms of power are unquestionable, the means and tools for doing so seem harder under such conditions of impossibility.

2.1.2. On (social) justice in plural societies

Justice is here discussed beyond metaphysical terms. Thinking of justice beyond metaphysical terms, means understanding it in political terms, that is what does justice mean in relation to the plurality and diversity of our societies. From the late 19th and early 20th century onwards, justice was slowly coined as social justice. In 1971, growing ideas on this matter were worked out into a theory of 'justice as fairness' by John Rawls, a theory which has influenced all scholarly debates on the matter. According to this theory, the terms of social cooperation that would constitute the basic principles of

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[47] For example, the practice of 'waiting zones' located within the territory of the state, created primarily for refugees and unwanted migrants are not created through exceptional law or extraordinary legal procedures, but are produced through ordinary law despite running counter to the constitutional guarantees of liberal democracies (Delaney 1998, Salter 2008, Walters 2002).

social justice in a just and plural society are the basic liberties principle, the equal opportunity principle, and the difference principle. Rawls highlighted the idea that rights do not belong to the state of nature but to a political order, and that there are moral elements in the contract procedure that are best represented by the idea of the 'veil of ignorance' to secure moral impartiality. According to him, a public conception of justice should be independent of controversial philosophical doctrines, and justice cannot be treated neither metaphysically nor epistemologically. His main point was thus that no general moral conception can provide a publicly recognised basis for a conception of justice in a democratic and plural state. Only political justice (justice as fairness) can allow the plurality of conflicting doctrines.

Since Rawls, the prevailing paradigm of social justice became the distributive or redistribution paradigm, which defines social justice as the proper distribution of social benefits and burdens among society's members, composed of material goods like wealth, income, and other resources, and nonmaterial social goods such as rights, opportunity, power and self-respect. This paradigm was characterised by the principle of structural equality, which postulates that the promotion of justice and equality requires non-discrimination, in other words the application of the same principles of evaluation and distribution to all persons regardless of their particular social positions or backgrounds. In the 1980s, political theory in the West was characterised by a paradigm change from redistribution - the politics of structural equality - to recognition - a politics of difference (what sometimes more narrowly has been called identity politics). As a social movement tendency the politics of difference involved the claims of feminist, anti-racist and gay liberation activists that the structural inequalities of gender, race and sexuality did not fit with the dominant paradigm of equality. They argued that this difference-blind ideal was part of the problem and that identifying equality with equal treatment ignores deep material differences in social position, division of labour, socialised capacities, normalised standards and ways of living that continue to disadvantage members of historically excluded groups. The main implication of this argument was then the belief that the commitment to substantial equality thus requires attending *to* rather than ignoring such differences (Fraser 1996).

Besides the focus on difference, this movement also focused on injustices understood as cultural patterns of representation, interpretation and communication. Nevertheless within the recognition paradigm we can distinguish two ways of

discussing difference, one of positional difference as cause of structural inequality and injustice which was central to feminist, anti-racist, and gay liberation activists of the 1980s who argued for equality and inclusion, and a more recent version of politics of cultural difference which gained currency in the 1990s, focusing on differences of nationality, ethnicity and religion, emphasising the cultural distinctness of individuals (Kymlicka 1995, Taylor 1992). Both the politics of positional difference and the politics of cultural difference share a critical attitude toward a difference-blind approach to politics and policy. They differ, however, in how they understand the constitution of social groups, and in the issues of (in)justice that they emphasise. It is unfortunate that over the last three decades, both the attention of public discourse and that of political theorists has shifted from the politics of positional difference to a politics of cultural difference (Young 1990).

Another direction in thinking the (political) meaning of justice in an increasingly plural and democratic society has been offered by Habermas (1984, 1987, 1995), who redefines justice as an ongoing 'deliberative process', shifting focus to the social institutions and actual practices through which deliberation takes place. Cooperation and dialogue serve as the basic premises on which the legitimating processes of political authority are articulated through the exercise of deliberation. Instead of a 'veil of ignorance', Habermas proposed a principle of universalisation that defines impartiality as a procedure of 'ideal speech situation', the idea that there are possibilities of an inclusive, non-coercive rational discourse between free and equal participants. In this way, Habermas connected his conception of the public sphere to the sphere of justice and thus made rational discourse the device needed to find the generalisable interests that would emerge step by step with collective deliberations. In this view, one does not need to define principles of justice prior to the deliberating processes by which societies go about their interests. Instead, he sought to find a more open procedure of argumentative praxis without giving up neither the Kantian idea of the public use of reason nor the pluralist view of modern societies.

Drawing both on the ideas of Habermas, and politics of difference, Nancy Fraser has articulated a three dimensional theory of justice which keeps the three core elements (redistribution, recognition and representation) together and interrelated rather than in a paradigmatic struggle. The third dimension of justice, representation or the political, in this sense provides the stage on which struggles over distribution and recognition are played out. In her view, the most general meaning of justice is

parity of participation. According to this principle, justice requires social arrangements that permit all (adult) human beings to be conceived as partners of interaction who possess equal moral worth and to participate as peers in social life, and overcoming injustice means dismantling institutionalised obstacles that prevent some people from participating on a par with others, as full partners in social interaction (Fraser 2003, 2005, 2008). To say that the political is a conceptually distinct dimension of justice, not reducible to the economic or the cultural, is also to say that it can give rise to a conceptually distinct species of injustice.

People can be impeded from full participation by economic structures that deny them the resources they need in order to interact with others as peers, in which case they suffer from distributive injustice or maldistribution. In this case, the problem is the class structure of society, which corresponds to the economic dimension of justice. But people can also be prevented from interacting on terms of parity by institutionalised hierarchies of cultural value that deny them the requisite standing, in which case they suffer from status inequality or misrecognition (Fraser 2003). Fraser has articulated three types of 'cultural or symbolic' injustice rooted in 'social patterns of representation' (Fraser 1997, 14) as being: cultural domination (subjection to alien standards of judgement); non-recognition (subjection to cultural invisibility); and disrespect (routine subjection to malign stereotypes and disparagements). As a criticism towards identity-politics and redistribution based on identity politics, Fraser nevertheless argues that we need to move away from identity-affirming remedies to transformative remedies that deconstruct the whole cultural-valuational structure. Affirmative redistribution measures targeting disadvantaged groups do nothing, she argues, to challenge the overall system of production. Such measures can lead to the 'marking' of those targeted and end up creating injustices of recognition. Transformative remedies are instead to be preferred because they can undermine social inequality without creating stigmatised groups. The combination of transformative redistribution and transformative recognition, Fraser (1997, 31) argues, will lay the foundation for a successful politics if "all people [are] weaned from their attachment to current cultural constructions of their interests and identities." Nevertheless, Fraser also suggests the possibility of a critical theory of recognition that does not deconstruct all identities but leaves the space to support those identities that can be integrated into a social politics of equality.

Finally, Fraser speaks of a meta-injustice, when questions of justice are framed in a way that wrongly excludes some from consideration, in which one is denied the chance to press first-order justice claims in a given political community. Akin to the loss of what Hannah Arendt called 'the right to have rights', that sort of misframing is a kind a 'political death' (Arendt 1951/1973). Those who suffer it may become objects of charity or benevolence, but they are non-persons with respect to justice. Fraser argues that the 'misframing' form of misrepresentation is the defining injustice of a globalizing age. Under these conditions of heightened awareness of misframing, the political dimension of justice is hard to ignore. Insofar as globalisation is politicising the question of the frame, it is also making visible an aspect of the grammar of justice that was often neglected in previously. It is now apparent that no claim for justice can avoid presupposing some notion of representation, implicit or explicit, insofar as none can avoid assuming a frame. Thus, representation is always already inherent in all claims for redistribution and recognition, in other words no redistribution or recognition without representation. Another important theoretician who believes framing (and thus misframing) is one of the most important epistemological and political problem of our times is Judith Butler. Both in *Precarious Life* (2004) and in the *Frames of War* (2009), she deals with these arguments, in the attempt to move beyond identity politics as an agenda for progressive politics. Frames, as Butler points out, are operations of power that regulate the affective and ethical dispositions through which phenomena are constituted and understood. Frames matter in terms of what is problematised and in what manner, but also in terms of who gets recognised as a subject, or even as a life form worth protecting to put in biopolitical terms. The question of the recognition of life which Butler elaborates begs the question of norms and normativity: what norms operate in producing certain subjects as recognisable persons and make others more difficult to recognise?

It is therefore easy to see how the notion of frames relates to the notion of racism and immunity, whereby similar operations of division and hierarchisation are at place to produce worthy and unworthy lives. Going on an opposite direction, Butler argues for the recognition of precariousness as a shared condition of all human life. Such recognition of shared precariousness, according to her, introduces strong normative commitments of equality and invites a more robust universalising of rights that seeks to address basic human needs for food, shelter, and other conditions for persisting and flourishing. Avoiding analytic traps on reliance of humanity on 'nature', she links the

existential conception of 'precariousness' with the more political notion of 'precarity'. Life requires various social and economic conditions to be met in order to be sustained as a life. Precariousness implies thus living socially, that is the fact that one's life is always in some sense in the hands of the other. It implies a dependency on people we know, or barely know, or know not at all. And it is, in her view, the differential allocation of precarity that forms the point of departure for both a rethinking of bodily ontology and for progressive or left politics in ways that continue to exceed and traverse the categories of identity. Connecting this argument to the arguments on framing, she argues that our capacity to respond to 'otherness' in general will depend in part on how the differential norm of the human is communicated through visual and discursive frames. There are ways of framing that will bring the human into view in its frailty and precariousness, that will allow us to stand for the value and dignity of human life, to react with outrage when lives are degraded or eviscerated without regard for their value as lives, just like there are frames that will not do that and will leave us indifferent.

2.1.3. From crime to (in)security: justice at risk?

In this section I move away from discussing security and justice as their relate to difference and plurality, back into the heart of the governmentality of crime control, in order to trace further the tension between justice and security. While the previous sections support the understanding of the potential positioning of restorative justice within discourses of security and justice in its applications in intercultural settings, this section redirects the focus on its current application within the current justice system. Scholars in different disciplines have pointed to major and noticeable shifts from institutional containment of dangerousness towards calculations of risk, surveillance, precaution, prudentialism, prevention, the pursuit of security and insurance technologies that evaluate, manage and track citizens, those who are at risk, or whose behaviour is risky (Castel 1991, Ericson and Haggerty 1997, Ewald 1991, Johnston and Shearing 2003, Loader and Rose 1999, O'Malley 2006, Simon 1988, Sparks 2002, Yar 2011). This has led to the redefinition of crime from an action that breaks the law, as one of the other threats and risks in society that leads to insecurity.

Reflecting more specifically on the future of criminology under this new type of penology, and the implications for criminal justice in general, Lucia Zedner (2007) diagnosis the arrival of the concept of pre-crime into what she calls security society, a

society in which the possibility of forestalling risks competes with and even takes precedence over responding to wrongs done. This challenges the role of criminology which she calls the intellectual offspring of a post-crime society in which crime is conceived principally as harm or wrongdoing and there are offenders and victims, crime control, policing, investigation, trial and punishment, all of which are staples of a criminological enquiry. Pre-crime, by contrast, shifts the temporal perspective to anticipate and forestall that which has not yet occurred and may never do.

Shearing (2001a, 2001b), argues that the concern with risk is not just an addition to how we think, but a completely new way of thinking which permeates everything we do, giving rise to a new mode of living.[48] Instead of doing things and coping with problems once they arise, we now seek to anticipate problems and avoid them. Thinking on the influence this has on justice and law, Shearing argues that a future-focused logic proposes a quite different idea of justice, that of an actuarial justice. The new theory of incapacitation, which has become the predominant model of punishment promises to reduce the effects of crime in society not by altering either offender or social context, certainly not to be just, but to keep dangerous people out of the way and to rearrange the distribution of offenders in society, delaying their resumption of criminal activity in society (see also Feely and Simon 1994, 174). Thus instead of emphasising the goals of public justice, government action against criminal activity emphasises the goals of risk management.

When justice is governed by the utilitarian rationale of protecting the public, it can also be viewed as a means to achieving security. In this perspective, justice dissolves into the pursuit of security. Penal justice is normally triggered by a violation of the law and is to this extent oriented toward the past, while security is future oriented and preventive in nature. The contrast between justice and security is nowhere greater than with respect to the distinction between guilt and innocence. The cornerstone of penal justice is the presumption of innocence, which entails a radical distinction between guilt and innocence. By contrast, risk management operates beyond guilt and innocence, the crucial determinant being one's simple involvement in an incident (not the capacity in which one was involved) or the potential threat one's lifestyle causes on the society. The task of penal justice thus becomes preventative rather than responsive, seeking not to punish but to exclude those with criminal proclivities (Feely and Simon 1994, 185).

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[48] Reminiscent of Esposito's arguments (2008, 2012).

Long before the scholars of criminology, in the late 1970s lectures at the College de France, Foucault[49] had traced these displacement that took place in the shift from the regime of sovereignty and law, where the social body ceased to have only a juridico-political metaphor towards a biological one, where population becomes the object of governance and penality is transformed from punishment into a defence of the society. Such displacements had argued Foucault imply an escape from the universe of penal law (which is centred on the act itself, and on the right bearing subject) to another universe difficult to integrate within the judicial system, the universe of a regime of security where danger and risk are at the centre stage. The purpose of a sanction is to diminish as much as possible, by elimination, exclusion, various restrictions, or therapeutic measures- the risk of criminality. As with Foucault's diagnosis of the biopolitical governmentality and the central employment of the apparatuses of security in what he called the 'defence of society'[50], and with Esposito's argument of a 'preventive war', Zedner's diagnosis of a pre-crime criminology and penal justice also shifts the temporal perspective to anticipate and forestall that which has not yet occurred and may never do.

Governing under such rationales for Foucault meant the "right disposition of things arranged so as to lead to a convenient end" (Foucault 1991, 93-95), a disposition that even law promotes together with other tactics. Speaking about dispositions O'Malley argues that this way of governing security is not concerned with the internal dispositions (meaningful activities of individuals, involving motivations, intentions, understanding, guilt, or fault), but its focus is on the distribution and effects of behaviours (external dispositions) (O'Malley 1998, xii). As becomes clear both from Foucault's diagnosis, and from the other criminology scholars, there is an evident tension between the dictates of a risk logic and the requirement of criminal justice system, or in other words between justice and security. Thinking of the question on how are we to achieve justice in a security society (Hudson 2003b), Zedner (2007) explicitly argues that criminology should seek to elaborate and defend a conception of justice apposite to the problems and potential of the security society.

It might not come as surprising, that some scholars within criminology have argued and suggested that restorative justice may be able to provide an approach to justice that combines both a moral approach for confronting the past (what happened?) with

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49 See Foucault (2003, 2007, 2008).
50 Which Deleuze (1992) has called explicitly 'the societies of control'.

the risk-based, instrumental and consequentialist approach to governing the future (what is to be done?) or in Shearing's own words 'restoring the future' in order to create a better tomorrow (Crawford 2015, O'Malley 1998, Shearing 2001a). Shearing (2001a) has been pursuing a line of enquiry in research undertaken in Argentina and South Africa, where there are attempts to implement the 'Zwelethemba model', which relies on the inventiveness of the local collectivities involved in initiatives in the local provision of security. One question that this research has addressed is the possibility of a future-oriented conception of justice that will resolve at least some of the tensions surveyed here. Johnston and Shearing (2003) have pointed to two critical features of this process: avoidance of conventional bifurcation of the disputants into victims and offenders, and addressing material and moral 'losses' through a forward-looking lens. Similarly Crawford (2015), while contrasting the retrospective features of the criminal justice system with the preventative logic of risk and security as incommensurable, has also argued that restorative justice is able to bridge this incommensurability, with both its simultaneous past and future-orientation.

Restorative justice clearly fits easily with a preventive scope, pre-crime orientation, and a risk-based logic of security, and is deemed able to bridge between the orientations of justice and security. Nevertheless the restorative justice scholars have been cautious not to emphasise this link too strongly and too often. Or if the link is to be celebrated, it must come with qualifications. The proliferation of restorative justice as a technology of conflict may be desirable only if it accords with Christie's (1977) goal of public participation as a social activity which leads to endless norm-clarification (and transformation therefore), rather than speedy crime prevention (and management). None of the objectives of restorative justice (responsibilisation, empowerment, reintegration, reparation and the least of all transformation) seem to go hand in hand with a social management approach to crime. Braithwaite (2000, 233) has already argued that restorative justice stutters when the welfare state is not there to support it, because its central notions depend on elements of a strong state. Thus while on the one hand restorative justice requires a small state in the criminal justice sense, on the other hand it requires a strong welfare state. Despite the forward looking potential of the restorative justice, it becomes important to mention its utilitarian aspect mainly as a side-effect rather than as a goal, which should remain offering a response to wrongdoing. There could be also other ways of thinking towards the future that are not prevention oriented but prospective oriented. The model of ecological

justice can be used here as an example, where justice is not only concerned with what has gone wrong, but with the future and the coming generations. This implies another type of responsibility, restoring the future, in other words.

2.2. Action research results

2.2.1. Intercultural governmentalities in the ALTERNATIVE project

Narratives and frames of culture and conflicts

In this section I reflect on the real or imagined link of culture and conflict, on the way diversity is accepted or contested in the sites, and on the diversity-oriented strategies (governmentalities) used by the various social agents. First of all, the question of whether culture was related with conflict, was central in the project in its attempt to challenge the intercultural framing of conflicts. Based on this normative attempt, very early in the project, the decision to use the notion of 'conflicts in intercultural settings' became prominent (as an alternative to a frame of 'intercultural conflicts'), hoping to decouple culture from conflict while still investigating the link. The researchers therefore were interested to inquire into the existing narratives, framings, and strategies regarding conflicts and conflict handling. Their tried to understand whether conflicts have to do with cultural markers or are framed in relation to cultural markers while being due to other markers. The answers they found were complex, but four main narratives regarding conflicts in intercultural settings can be discerned: the 'no conflict' narrative, the 'intercultural conflicts' narrative, the 'culturalisation of conflicts' narrative and the 'covert racism' narrative. The 'no conflict' narrative argued that the sites are not ridden by conflict and even less so by conflicts along the lines of cultural difference. The 'intercultural conflicts' narrative states that conflicts are pervasive and they are mainly related to cultural differences. The 'culturalisation of conflicts' narrative argues that conflicts are framed along intercultural lines but when looking more closely turn out to be due to other markers (intergenerational, socioeconomic, etc.). Finally, the 'racism in disguise' narrative argues that conflicts are framed around other markers (rules of conduct for example), but are actually due to cultural differences.

While co-existing in the sites, at the same time, these narratives are constantly constructed and deconstructed by inhabitants, researchers and social workers alike. More prominently researchers found that cultural markers intersect with other markers, contributing often to the exclusion and marginalisation of certain voices: most often they intersect with difficult socio-economic conditions, and sometimes with gender, age and religion. In Vienna, the conflicts were mostly relating to rules of conduct within the social housing (regarding the behaviour of children, the way the women use public space, vandalism, just 'hanging around', problems around alcohol and drugs, problems around noise, garbage and smells), but also had to do with fears, identity, belonging, welfare and insecurity. For example, the most frequent cause for neighbourhood disputes occurring in the Gemeindebau are noise disturbances (Haller and Karazman-Morawetz 2004, Hanak 1996, Reppé and Reiter 1997, see Deliverable 4.2.). Conflicts due to noise are not directly related to ethnic differences among residents, given that conflicts due to noise have been reported long before the opening of the Gemeindebau to the immigrants. Rather, issues related to civil engineering and urban planning, like the poor acoustic isolation of flats and the high population density within living quarters, are known to be the main cause of such disturbances. But the current framing of the causes is often attributed to the culture-specific circumstances: too many people congregating in apartments, too many visitors, especially at the time of Ramadan or insufficient control and disciplining of children. In Hungary the conflicts were framed around forces of change and forces that tried to keep the status quo (newcomers/ old residents, religious versus non-believers), socio-economic and ideological differences (poor/ rich residents, spectrum of political beliefs), and Roma-related conflicts (exclusion/ inclusion, sympathies, stereotypes, insecurities). In both contexts conflicts became more prominent and more salient when they had to do with the use of semi-public and public spaces, including civil society initiatives and media control that had to do with presence, representation and voice.

Investigating further the narratives of conflict within the Gemeindebau in Vienna, showed how the opening of the Gemeindebau in 2006 to the migrant population has become an issue of mutual reproaches in these sites. Austria had suddenly to comply with EU regulations regarding non-discrimination, according to which migrants had to be treated as citizens with all due rights including the rights to access to (social) housing. This has been interpreted by conservative segments of the population and the right-wing political forces as unjustly favouring persons and families with a migration

background. Entitlements and the conditions and prerequisites of citizenship are a huge discussion in Austria, and throughout Europe today. The main line of reasoning is that only the ones who have contributed to building the post-war welfare regime, must partake in it, and that entitlements have to be earned. The immigrants are thought to take the benefits of a generous welfare regime unduly[51] and also thought to be treacherous and extremely skilful in using them. For this reasons, the 'intrusion' of migrants to Viennese public housing estates is considered more of a problem by the native Austrian residents than is the higher proportion of migrant population in the old housing stock and in urban areas where there has been a relatively long tradition of migrants amounting to more than 20% of the resident population (see Sessar 2004). Although the city of Vienna has made huge efforts to change its diversity policy from one where diversity if framed as deficit into one where diversity is framed as richness, the prevailing narrative within the housing estates is one of irreversible change, one of nostalgia for a 'lost world' and 'bygone times', when the Gemeindebau belonged only to the old Austrian residents. While the social changes within the social housing estates are real and material, like the abolishment or reconstitution of the 'Hausbesorger' (caretaker/janitor[52]), the re-management of the laundry rooms, the closure of the hobby rooms, the changes in the neighbourly relationships, the narrative of a 'lost world' revolves around that 'before and after' of the arrival of the migrants.

Although legally entitled to the social housing estates, we see therefore how the migrants are considered as morally not entitled by the residents. Similarly, claims of belonging to the Austrian nation are not solely justified through the possession of formal citizenship. The term 'Neo-Austrian' (Neo-Österreicher) emblematically stands for the need to maintain the boundary between those who are legally the same as 'the Austrians' but different in other ways, 'new' therefore, arrived after. The difference is politically instrumentalised in order to exclude some citizens from access to the resources of the welfare system and socially to justify the call for unconditional adaptation to 'the Austrian way' of living. Socially, this boundary maintenance is done both through strategies of temporal othering and cultural othering. In the Hungarian site too entitlements and belonging were at stake. The residents contest distribution practices and policies based on the Roma status of some inhabitants and constantly

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[51] Often even the strategies used by social workers to counteract the effects of exclusion and marginalisation are even seen with resentment by the old Viennese residents.

[52] An ambiguous figure who used to act both as a caretaker and a controller with sanctioning functions. Some talk of this figure as a figure of a person to be respected, other as a figure to be feared (Deliverable 4.2.).

redefine poverty lines. Although citizenship is not the matter in this locality, membership is also constantly contested, as newcomers (this often has not to do simply with time, as one can still be a newcomer for 20 years) are not accepted as belonging unless they unconditionally accept and follow the local ways.

In the social housing estate the perceived singularity and superiority of one's way of living as the one and only way has been shattered by the arrival of migrants. For the inhabitants living in the social housing estates has always been a source of pride and stability, where their ways and living in a world that is familiar remained an important bulwark against social descent. Feelings of irritation emanate therefore from the sheer presence of the immigrants and their congregation in semi-public space, and the threat of their 'alien' ways of life taking over the old-Viennese style of living is often articulated. Hanak (1996) has interpreted the feelings of insecurity presented by the Austrian majority towards their foreign neighbours, as being caused by a "culture conflict". He compared aspects of the Austrian national culture (high control of affects, strong separation of private and public space, individualization) with aspects of 'Einwandererkulturen' (cultures of immigrants). The usage of public spaces (pavements etc.) for purposes other than established in Austria (traffic vs. playground) by migrants who depend on these spaces because of small flats, is experienced as the "occupation of territory" and the "expulsion" of natives from these spaces (Hanak 1996, 68). But overall data suggests that foreigners and migrants are perceived not so much as a threat or a risk, but as noisy, annoying and not adjusting (see Sessar 2006). These emotions give way to a paternalistic frame as compared to a frame of fear, which is often operating in security discourses.

Under this paternalistic frame, often women and children become the visible markers of a certain culture, blamed for lack of proper conduct, or almost everything- for their physical appearance if they carry the veil, for the smell of the food they cook, for the garbage they don't collect, for their unruly and noisy children, and for their congregation with other women for chitchatting in their incomprehensible languages and for their perceived idleness, all indicating their refusal to 'integrate' and to adapt while clinging to their foreign and 'disturbing' habits. The call for unconditional adaptation is very prominent (why don't they learn first of all what's the mentality here and what are the rules?) and migrants have to abide by the rules and by the customs of the receiving country. There are grades of perceived differences among the migrants nevertheless, some migrants (ex. the 'Jugoslaven') are thought to be more easily

integrated as compared to the Turkish. This selective acceptance depends on how many different markers people are bearers of and how these markers intersect with each other (language, religion, age, social status, lifestyle).

The main barrier in expressing and negotiating claims regarding different viewpoints remains language, a barrier which can certainly not be understated. But often difficulties do not arise from not having a common language, but from uncertainty of general sharing of norms and expectations, and insecurity about the subtext words carry (whether or not, and if or how this subtext will be understood), in other words differences in lifeworld background. These insecurities can relate to harmless assumptions (are Muslim neighbours going to be offended by the Austrian greeting 'Grüß Gott'?) and expectations (must a plate with sweets from ones' Egyptian neighbour be returned empty of full?), but also to larger differences which can be used to build one's identity (Austrians don't spit on the ground, and don't leave remains of their food on the ground in the parks). Differences can also be perceived as supreme signs of superiority of one's culture (kissing the hands of grandparents, or following husbands' orders are perceived as "terrible gestures of submission"). Identities are constructed through practices and discourses of both temporal and cultural 'othering' that generate difference ("I am not interested in these traditions that might have been prevalent here in Europe, in Vienna maybe 500 years ago! It is just backward!").[53]

For the migrants themselves the story lines are different but just as complicated. Their multiple belonging create ambivalence for what one calls home, where one feels a stranger and what one's identity is ("I said, who am I really, am I an Austrian, or Filipino? People told me, yes you look like a Filipino, but from the way you behave, you are Austrian").[54] The exclusive logic inherent to national identity does not give people the space to accommodate both senses of belonging and identity. Some people manage to live through this ambivalent sense of belonging and make that feeling of 'at home nowhere' their home, while for others this remains more difficult to do, leading to a sense of splitting of self. At the same time, this self-work is also related to how others make them feel ("You feel Austrian but the surrounding neighbours don't think you are"[55]), pointing at the treatment by others as a core element of identity construction or identification. Even when individuals chose to resist certain frames of identification

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[53] Deliverable 4.2., 73.
[54] Deliverable 4.2., 79.
[55] Deliverable 4.2., 80.

(for example national identity), patterns of behaviour toward them may compel them toward such identification.

Expression of unhappiness or complaints about 'the other' are more legitimate for the ones who believe are entitled to full membership, while the others have to accept and adapt ("After all nobody invited them, so if they are unhappy they can leave!").[56] Nevertheless, even if not expected to complain or express unhappiness, bringing with them their own beliefs and attitudes, sometimes immigrants do voice their complains ("This country is crazy, you request people to be silent from 10 pm onwards, while we only awake at that time").[57] They express their surprise towards 'Austrian' ways of living (duty of parents to care for the children does not follow a corresponding obligation of children towards their parents). Hospitality becomes a differentiating marker and sense of pride on their behalf, becoming manifest especially when women contribute food to common festivities without asking for a refund. Both mediators and researches have noticed differences in conflict work, whereby the Viennese strive for a solution at the objective, often the material level or the level of deciding on certain rules of behaviour, which is expected to improve the relationship. On the other hand, mainly the residents with a Turkish background are first of all interested in (re)establishing a relationship, and expect and believe that the solution regarding practical matters will follow more easily from that established relationship.

In the Hungarian site, there were also different interpretations about different groups and conflicts. While the Roma interviewees reported discrimination or discriminatory practices, prejudice, disadvantages at workplace and even life-threatening conflicts, the non-Roma used the usual familiar stereotypes about the Roma, their criminality, their unwillingness to change their lives, their laziness and lack of hygiene. Structural explanations are rare, usually Roma exclusion is explained within both an individualising and (ethnic) essentialising perspective, which emphasised either the responsibility of the individual or the naturalness of the ethnicity ("it's in their blood").[58] The stereotypes and perceived differences are not simply folkloric, but often become the main justification for exclusion from the civil and political life of the town (from football clubs, from festivals, from civil guards initiatives, from distributive policies). Belonging of a minority seems to be accepted by the majority when the minority "knows their place", reminiscent of the social housing

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[56] Deliverable 4.2., 75-76.
[57] Deliverable 4.3., 30.
[58] Deliverable 5.3., 61.

call for unconditional acceptance. Knowing one's place can even be argued to go beyond unconditional acceptance towards immunitary tendencies, and the usage of words of blood and genes only confirm these tendencies.

Strategies and governmentalities of social agents

As a counteracting strategy, the researchers of ALTERNATIVE have analysed conflicts focusing on the power relations that are behind the conflicts and go beyond 'cultural' or essentialised differences. But how are the social agents tackling some of these problems, which what objectives and what effects? Starting with the Gemeindebau, we have seen how both wohnpartner and Bassena follow a strategy of empowerment for those in a disadvantaged position, always with the aim of enabling them to participate as fully as possible in the handling of conflicts or more generally partaking in the social life of the neighbourhood. In doing this, they both pay a lot of attention to migrants, their representation in various activities and the defence of their rights. As emphasised also in the first part of this deliverable, there are nevertheless differences between these organisations.

Residents with a migration background figure very rarely as 'complainants' but are almost always the party that is complained about. They also show excessive readiness to comply with demands of adaptation including renouncing parts of one's cultural traditions and way of living, cooking certain kinds of food, or having visitors that stay late at night. Wohnpartner attempt at balancing for this vulnerability by arriving at a realistic agreement that takes care of vital needs of both sides of the conflict. Whenever a person calls on wohnpartner with a complaint about a neighbour, the person is asked to show up for a personal face-to-face interview where the social workers take the person seriously by listening carefully to her grievances and complaints, but not at face value, meaning that they try to see what is behind the words used and behind the complaints expressed, and attempt to bring to the surface people's real needs and interests. Especially, during complaints directed at migrants and their way of living as an expression of their 'particular nature' ("it is these Turks and their habits that are unbearable!"[59]) wohnpartner's strategy is that of 'breaking down' the general accusations to arrive at naming the concrete disturbance and irritation. Parties are therefore asked to (re)formulate concrete disturbances and irritations that affect their

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[59] Deliverable 4.2., 50.

life and their well-being instead of putting forward general, abstract, or total types of accusations. The conflict workers give the message that concrete problems can be tackled, while other resident's nationality, place of birth, or his religious and ethnic affiliations cannot be changed. And whenever the residents insist that their problem is the religion or nationality of the party they are complaining about, wohnpartner withdraws its support. The strategy of 'breaking down' complaints has led to a new politically correct attitude within the social housing, where the residents have 'learned the code', refraining thus from explicitly uttering insults against residents of non-Austrian origin. Both the 'corrective empowering' strategy with the migrants, and the 'educational' strategy with the rest, does not pass unnoticed and bothers some of the inhabitants. They perceived these strategies as dedicated to and protecting overwhelmingly the migrants (It has become too 'türkenlastig' - lopsided towards the Turkish people).[60] The policy of paying attention to diversity and promoting diversity becomes therefore potentially a source of breeding more discontent.

The strategies of the Bassena (community centre), while focusing also on the immigrants' empowerment (compensatory empowerment) go beyond a mediating role that tries to maintain peace towards a provocation of conflict to activate residents. The other difference is that immigrants do not form a particular group of attention for the organisation, but depending on the objective of the issue involved, they aim to create a face-to-face level of encounter between residents that will expose their contradictions and lead eventually to collective actions. The most clear example is the 'carpet washing'[61] habit, which once forbidden in the laundry rooms affected mainly Turkish women. As they were struggling to forward their argument and be heard in the discussions around this issues, the Bassena team decided to support them in the search for a solution namely the installation of a separate laundry room, where exclusively carpets should be washed. In order to gain public support for this agenda, the Bassena team organised a carpet-washing-plant, in the morning of the big party celebrating the renovation of the housing estate. A few women gathered to wash their carpets on the ground in the biggest square of the housing estate and put them up on the fence of the neighbouring school for drying. They afterwards collected signatures of other residents in support of their petition. This action itself, carried out visibly in the public space of the yard steered up the emotions of less supportive residents, who deeply rejected the

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[60] Deliverable 4.2., 75.
[61] Deliverable 4.2., 61.

action and directed complaints towards the community centre. These residents and the involved women now met for the first time, in order to discuss what had happened. The difference between an individualised mediation approach to such a conflict as a one-to-one conflict between neighbours and a collective face-to-face action becomes interesting to ponder on. If we think along with Fraser, this would constitute a transformative type of action, where both distribution, recognition and participation are not simply affirmative, but attempt at transforming all the dynamics in the site.

The researchers, despite working together with Bassena and wohnpartner, contributed often with a different approach to issues, which was grounded of course in restorative ideas and methods. The main visible difference of the restorative approach with the approach of wohnpartner was its 'open facilitating approach'. The open facilitating approach implied that there were some basic rules to be followed, but the content suggested by the facilitator to the participants was kept to the minimum. At the same time, there was not an emphasis on forbidding certain utterances, and also not on giving concrete advice.[62] The process under this approach belongs fully to the parties. This approach which was rather based on a self-regulating power of the circle and on the radical ownership and 'expertise' of the residents themselves was at odds with wohnpartner's perceptions of the scope of intervention. In their eyes "giving vent to xenophobic attitudes and feelings"[63] is against their policy guidelines, because of the conviction that once you open this valve, a torrent of xenophobia and racism might overthrow the work done so far. They also were against an unpredictable and in their eyes 'unsafe' process during which conflict simply 'unfolds' or is helped to unfold. Researchers have interpreted this as a way to provide containment. Wohnpartner provides containment by excluding certain themes, certain questions, and even 'feelings' (xenophobia for example). The restorative approach of the circle on the other hand provides containment, by making the participants acquainted with a tool for dealing with their feelings (whatever these are) and of giving them space by training listening capacities.

The main difference with Bassena and the similarity with wohnpartner is that the researchers explicitly focused on conflicts, while the main difference from wohnpartner and the similarity with Bassena was their focus on rather collective or 'common' conflicts which took place at the battlefield of cultural representation instead

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[62] Providing context (as opposed to a content), means providing the means or tools that will induce others to speak for themselves, and the context in which they may be heard.
[63] Deliverable 4.4., 54.

of individual conflicts. In the two core cases ('the graffiti case' and in the 'women's café') there have been several 'norm-clarification' attempts which the researchers called processes of boundary-making and unmaking as constant features of the interaction.[64] The boundary-making was visible in cases when inhabitants established exclusionary group identities along the logics of a 'we Arabs' 'our Muslim women', 'we, the working population', 'they, the idle and headscarf women'. But boundaries were also subjected to challenges, disputing and redefinition, leading to boundary-unmaking processes, both in relation to self and other. For example, what was often perceived as maternalism on behalf of the Austrian women towards the immigrant women ('advices to learn the language and get integrated') was also through interaction reframed as efforts to make contact, expression of caring and protecting and even controlling, often in the face of not knowing what else to do and how to help. Investment of time and energy in other's people's lives (teaching language, accompanying people to offices) was deemed to be the most convincing means of transcending boundaries. The meetings at the 'women's café' for example were clearly encounters and events that both diminished the distance between different women, but also created a safe space (ex. through sitting arrangements) that brought to light previously unarticulated conflicts. We have to understand boundary-making and unmaking therefore as attempts and processes of norm-clarification that never end: the boundaries are not made once and forever, but are constantly shifting.

In Hungary, the researchers also referred to how the maintenance of group boundaries could work as factors for identity construction, identification and a source of (societal or identity) security. In terms of security, for example, they noticed that discrimination by others is counteracted by the Roma inhabitants through strategies of estranging them from their own circles and denying any connectivity, or usage of irony and satire against the non-Roma majority in their narratives. These strategies were often used to defend their identities and to feel safe from constant exclusion ("We belong to the village as well, but more to each other").[65] The same processes were observed about the maintenance of borders between newcomers versus old residents, the native villagers don't let them step easily in their circles. Often the boundaries are kept even without articulation, as much through what is said as what is unsaid, but assumed, or hinted at. On the one hand, maintaining the boundary between different

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[64] Deliverable 4.4.
[65] Deliverable 5.3., 119.

groups keeps safe the identity of members over time (Barth 1969), but on the other hand, the boundary maintenance often turns up in negative stereotypes about the 'other' that shapes the quality and quantity of the relations. Roberto Esposito's rethinking of community versus immunity, and immunity versus auto-immunity becomes important to mention here. Thus he would argue that while a certain level of immunity is not only healthy but vital to a community, when the level of immunity becomes so high that it turns into auto-immunity, this is what endangers a community. Thus it is not boundary-making or boundary-maintenance in itself that is a problem, as long as this goes along with simultaneous processes of boundary-unmaking of self and other that keep a certain level of flow back and forth between different members in the communities, but rigid and hermetic boundaries which can feed homogeneisation, essentialisation and therefore demonisation of the other.

The main problem of 'difference' is never difference *per se* but the fact that it always comes in a hierarchical matter (if you are good then the other is evil), and therefore framing, identification, and boundary-(un)making are political processes. In Hungary, since the far-right movement has gained more and more popularity, there have been growing radical voices towards Roma in the town, indicating how the levels of global, national, local, and individual are not separate, but always intersecting. The important political aspect of framing becomes especially salient when residents refuse to admit any structural link between poverty or discrimination and the Roma ethnicity. It they have to find a link, they refer to cultural (genetic, biologic) determinants, like laziness and criminality being in 'their blood'. Thus the story goes, Roma commit crime because they need money, and they need money because they are lazy and want to live on social benefits. It must not be forgotten though that identities are constituted within the shifting field of historically constituted social relations. Their value cannot therefore be located in and of themselves as isolated entities but in the dialogic nature of social interaction and the embedded grid of meanings and power that shape interaction and bring about a certain fixity. Both the importance and the challenge of changing such framings becomes important, especially in the light of their totalising, essentialising, and excluding power. But are affirmative policies able to do that or do they contribute further to marking and stigmatising certain groups?

2.2.2. Justice and security in ALTERNATIVE

In this section I reflect on the way the notions of justice and security are expressed, invoked, and negotiated in the two settings, and on some of the implications for restorative justice's contribution to intercultural settings as they relate to justice and security. My approach here involves looking not at the concept of security and justice as such, but more broadly at the ways and the contexts where justice and security are invoked in the sites by the different social actors. I will also try to show that the concepts are often intersecting with each other, and they are also sometimes extremely context-dependent.

Security in context: differences in space and time

In Vienna, the changing notion of security is reflected in the social architecture of the housing estates. Especially if we think of how the emphasis on security as immunity is changing the notion of what bounds a community together, we can see through several transformations the loss of community in the name of security. The first example is the administration of the laundry rooms, which once used to be within the responsibility of residents themselves, and later was formally taken over by Wiener Wohnen which installed the 'Natürlich sicher' (naturally secure) system of new lockers and electronic key cards as measures to organise access to the laundry rooms. The second example are the common hobby rooms which existed within each 'house' for leisure activities, which were closed on the grounds they had repeatedly been left messy after noisy parties. Again the focus has been to counteract besides dirt and noise, certain types of conduct. The focus in the social housing is time and again on social conduct: this is also one of the reasons that migrants, rather than a source of threat or risk are perceived more as annoying and not adjusting.

The most important change has been the abolishment of the 'Hausbesorger', the Austrian version of a caretaker/janitor[66], who used to live in the houses they were taking care of and whose function was that of somebody to turn to with ones' concerns (also a function of social control). After the 'Hausbesorger' was abolished according to a Federal Law in 2000, many complaints were voiced and Wiener Wohnen established a model of new caretakers: one version is a team of caretakers working at the estate

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[66] Security and care are highly related (the word securitas: freedom from care).

once a week, and the second version is an individual caretaker who works every day of the week with fixed working hours and lives close to the estate and receives specific training. The role of wohnpartner is also one that both offers security and care, one that watches over the estate and the inhabitants in both senses of the word. In fact, in German the notion 'aufeinander schaun' which can be translated both as 'looking at' or 'upon each other' implies a mixture of taking care and controlling the other. Inhabitants spoke with nostalgia about the figure of the caretaker, a figure who induced both fear and respect, a 'Respektsperson'.[67] They also voiced undermining of this authority on behalf of children of immigrants. Some inhabitants asked for the need to allocate sanctioning power to the caretakers (like collecting fines and demanding children to do cleaning tasks). Caretakers, in the light of their curtailed powers, apply creative strategies of dealing with kids that do not abide the rules ("I make them clean up, handing them a dustpan and after wards I invite them to have an ice-cream"), but also dealing with elderly ladies who shout at the kids ("tell them to withhold the anger. I have a very effective means of making her comply: she is forbidden for a whole week to caress my dog").[68]

After these amusing narratives, it is interesting to narrate here also an example of resistances to the changes done in the name of security. The case study dates back into spring 2011, when Bassena first talked to residents who were awaiting the implementation of closed-circuit television (CCTV) in their housing estate. The city government had launched a media campaign to announce their decision to further increase video surveillance in the social housing estates. CCTV was presented as an adequate measure to tackle problems of vandalism (mostly graffiti) and illegal garbage disposal. It is interesting to note that the first residents to engage critically with this idea were the caretakers working in the housing estate. While they had initially claimed that they would even welcome cameras in their bath rooms as they were "honest people, after all", they eventually realised that they would be exposed to permanent surveillance during work, as most cameras would be installed in their working areas. From a different position, the team of community workers of Bassena had gone through a reflective process and formulated their own position as being against CCTV in public housing estates, mostly due to human-rights based arguments. Aware of the

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[67] The researchers (Deliverable 4.2.) point to the essayist Franz Schuh evokes the image of one of these persons of frightening powerfulness, this 'Re Ubu of his childhood", a power that drove its 'aura' not least from the existence of an all-encompassing authoritarian regime'. In the late 1950s this power had weakened (Schuh 2012).
[68] Deliverable 4.2., 72.

fact that many residents actually were of a different opinion, the team decided to initiate informative sessions for the residents and invite external experts to lecture on legal, technical, financial and social aspects related to CCTV. Throughout this process of building public expertise, the caretakers had a central role as they were capable of motivating other residents to engage with the topic.

The learning sessions led many residents to taking a critical stance towards the arguments made by the city government. The effectiveness of CCTV for the problems it was meant to deal with became highly questionable. Moreover, their attention was drawn towards the high costs for the maintenance of CCTV systems. Alerted by this background information, a group of residents tried to get a hold of a report on the effectiveness of CCTV in Viennese housing estates, which the city government itself had commissioned. Yet they were denied access to the report in question (still unpublished). Previous suspicions that the city government was trying to campaign for its re-election in the upcoming polls were further confirmed in the eyes of the residents. When the city government specified that the money for the installation and maintenance costs would come from the city's budget, what had at first seemed to be a promising means to address some of the residents' troubles suddenly appeared to be empty promises motivated by political strategies during pre-election times; which, as some of the residents were convinced, they would ultimately be the ones to pay for. Eventually a legal expert informed them of the simple measure they had to take in order to prevent the installation of cameras within their housing estate: writing a letter to the national commission for data protection, declaring that they did not wish to be subjected to video surveillance. The residents chose to undertake the necessary step and to fend off the implementation of CCTV Am Schöpfwerk.

It is interesting to reflect on this case rather in depth, both on its objectives and its effects. The important thing to notice is that the role of Bassena as a clear position taker against the majority of the voices of the residents by distancing themselves from the installation of cameras in the housing estate, was rather unusual for a team that usually sides up with residents' wishes and initiatives. Nevertheless, their role was not to convince residents who were of a different opinion, but to sensitize residents on the topic, knit networks between the minority of voices, facilitate and ensure that the residents discussed the matter with experts and made an informed decisions, regardless of the decision. Clearly, this strategy successfully led to the residents' resistance to the implementation of CCTV in their housing estate, although the decision

of the residents was completely due to different objectives (financial costs) from the ones of Bassena (human rights, privacy, data protection).

Despite the loss of certain initiatives and other 'successful' ones mentioned here, it is important to emphasise that in Vienna research has shown that residents' sense of security is usually based on their trust in 'the system' (local welfare state and the urban infrastructure) rather than on regular involvement in activities and patterns of association and participation operating on a local level (Sessar 2004, 105). Moving to the site of Hungary points to different relations to the notion of security. The notion of 'paying attention to each other', thus security both as caring and watching over was also visible as with the notion of the caretaker in Vienna. But the role of the community and civil society in providing security (*biztonság)* was much more prominent in the Hungarian site. Newcomers and everyone that the community does not know represent danger ("We were not able to track the background of those people who arrived to our village…maybe they were criminals").[69] Cooperation of neighbours is deemed therefore crucial in crime prevention ("We should not be selfish. If I hear that the dog at my neighbour's is barking all night… I also switch on the light, go out and ask if everything is all right. This is what the criminals have to feel, we join forces against criminals").[70] The inhabitants underlined also the importance of the local NGOs, as offering pedagogical and emancipatory tools, facilitating socialization and providing opportunity for integration into society, which help keep one away from criminality. Despite the neighbourhood support and the role of the civil society, at the same time, the notion of security relates also to tools that inhabitants use to protect themselves, like alarms, locks, cameras and also to the initiative of the Civil Guard (a neighbourhood watch type of initiative). They associate the notion also with target groups of crime: old and lonely people, the ill, the defenceless and naive people. Finally they also associate the notion with groups that are dangerous for security, mentioning mainly Roma inhabitants ("When we are informed that he is out of the prison, something will happen soon").[71]

While this depiction of security as embedded in a tight knit community and civil society initiatives[72], seems very different from a 'trust in the system' observed in the

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[69] Deliverable 5.2., 71.
[70] Deliverable 5.2., 72.
[71] Deliverable 5.2., 71.
[72] See also Deliverable 8.5., 85: "Solidarity and trust (*bízik*, from which *biztonság*) as alternatives to the techno-institutionalisation of security, but also potentially open to exclusionary practices (Roma may have quite a hard time to be accepted in the Civil Guard)."

Viennese site, participants seem to know what a 'trust in the system' implies. They look back to the period of socialism with nostalgia, remembering secure jobs, predictable income and well-being, narrating socialism as the period of 'peaceful, calm life' and of social security which reduced the chance of crime. Nowadays social security is attributed instead to local entrepreneurs who hire local employees and thus support the village, although according to the market and profit logic.[73] These particular dynamics lead to visible tension of the values of security, welfare or justice.

In the name of security: justice, welfare, community under risk

The first conflict through which this tension becomes visible is the case of the so-called 'Butcher Festival'.[74] The purpose of the Butcher Festival was to make a local tradition from an old-new Hungarian custom: killing a pig at the end of winter and making different types of food from it (pudding, sausage, aspic, fried blood). Visitors of the festival had to pay an entrance fee, therefore most Roma did not take part in the event. The organiser openly opposed the local government's idea of allowing free entrance for disadvantaged inhabitants. According to him, there were economic reasons behind his argumentation because poor visitors "will not buy anything and thus decrease our income." In addition, he wanted to avoid offences committed by those participants 'who are not able to behave." The organiser was one of those few residents who openly talked about thefts which were presumably committed by the local Roma ("the local government wants me to ensure tickets for free for the disadvantaged... In this case, I would not like to organise the festival. It is a huge investment and Roma are not able to behave. I do not want it to be free. I want all of the participants to have a good time.").[75] This open legitimation of Roma exclusion coming from a private entrepreneur, is justified as being driven by profit as a main objective, and especially given the fact that private entrepreneurs are seen as important sources of social security in town.

Several local actors (for example the mayor and the leader of the Roma Self Government) struggled for free entrance to the festival for all Kisvaros inhabitants in the name of (social) justice, wanting to ensure this opportunity mostly for those with

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[73] See also Deliverable 8.5., 87: "A departure from the 'security as personal physical safety' frame occurs in a couple of occasions when the understanding of personal safety is expanded to economic security, employment."

[74] Deliverable 5.3., 66.

[75] Deliverable 5.3., 68.

poor living conditions (affirmative policies). Thanks to these efforts and many discussions, entrance to the 'Butcher Festival' of 2014 was made free for all the inhabitants of Kisvaros and the organiser was subsidised by the local government, but nevertheless there were no Roma participants. The reasons were complex, among which the main one was the lack of information which got stuck at the leader of the Roma Self Government, who did not want to make propaganda for the festival within the Roma community because he recognised a chance of the manifestation of conflict or even open violence between Roma and some of the organisers. As he put it: "if you are full of passions or there is a friend of yours and you drink some shots of pálinka.... you may leave your hindrance and become hot-headed."[76] Thus we see here a kind of self-stereotyping, but also paternalistic attitude towards one's community, as he also expressed that if they had participated they would have been humiliated because they couldn't have purchased anything in there, would have had to listen to denigrating music (openly anti-Roma songs) and also would have been left alone.

In the Butcher-festival case, there were clear clashes between affirmative policies and security and profit oriented interests. The owner of the festival did not agree to make the festival free for the Roma residents on the grounds of the security (they will steal and make harm) and profit (they will not buy anything), while the local government tried to offer free tickets to 'poor' residents (where the Roma marker was not explicit but implicit). Although eventually it was agreed that they could participate freely, none of them showed up at the festival, and there we see that affirmative policies are never enough to fight exclusion. Even though they got a free ticket, the high price of the food and products decreased the chance of visiting the event. What is more important, the differences in status were the main element, given that visitors of the festival belonged primarily to the middle class, they arrived at the event in their own cars, they often wore branded and good-quality clothes and they had enough savings to buy food and products. Roma would not have enjoyed their time in such a group: the well-known anti-Roma sentiments of the organisers probably also decreased the number of the Roma visitors "if he is not loved, respected and welcome, one does not visit places."[77]

The other case I would like to illustrate how security intersects with exclusion is the case of the so-called new 'Civil Guard' initiative[78], which intended to contribute to

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[76] Deliverable 5.3., 80.
[77] Deliverable 5.3., 79.
[78] Deliverable 5.3., 51.

the decrease of burglaries and increase the sense of safety in Kisvaros. The initiators (one of whom was the Roma Government Leader) considered their initiative important because of the high number of burglaries and as neither the current 'Civil Guard' nor the local police were able to fight off criminal incidents. They wanted to involve villagers who would have been able to support the work by covering the costs of the petrol. Wanting to avoid conflict with the current 'Civil Guard', they contacted the mediators of the Foresee Research Group. While, not a Roma specific initiative, it was clear that the intention of the new Civil Guard was to counteract the exclusion of the Roma from the current 'Civil Guard', by inviting them to participate. Clearly, the possibility of Roma joining the new 'Civil Guard' decreased the chance of non-Roma's participation. Some residents were clearly against Roma civil guards because according to their interpretations the Roma will use the post for their own benefits "if Roma go on patrol they will just check where to break in later on."[79] While not expressing openly their doubts against the involvement of the Roma, residents instead justified their arguments with 'professional reasoning'. According to some of the local residents no one could take part in the work of the 'Civil Guard' without experience and 'professional knowledge'. The criteria regarding the criminal record do not allow the Roma to join the 'Civil Guard' because "several Roma used to be offenders." Moreover, those Roma "who work at daylight are not able to go on patrol at nights."[80] In addition, Roma civil guards would have to catch the Roma criminals who are their relatives and this would "cause conflicts in their private life." Last but not least, only a few Roma would have been able to take part in the work of the new 'Civil Guard' because the majority does not have driving licences. These opinions were counteracted[81] by the leader of the Roma Minority Government, according to whom this was only "a bluff in order not to welcome everybody... one does not have to attend the 'University of Security'""[82] to become a Civil Guard. What we can see in this case is also a selective inclusion, whereby some members of the old Civil Guard organisation invited the Roma Government Leader (as the example of 'a good Roma') to join the civil guard while no other Roma

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[79] Deliverable 5.3., 16.
[80] Deliverable 5.3., 63.
[81] "We also feel as a piece of shit when there is a burglary in the village and we are blamed as burglars. I would like the local residents to recognise that Roma are for peace and tranquillity and they would like to do something for the security of Kisvaros" (Deliverable 5.3., 17). He also underlined that "burglars usually come from the neighbouring villages. We are very angry because if there is an incident the communication will be about 'the Roma who burgle' and not about 'the burglar Roma who are not from our village'" (Deliverable 5.3., 61).
[82] Deliverable 5.3., 62.

from the village were welcome. Clearly his refusal to play as a solo actor and his attempt to organise something more structurally inclusive was not welcomed.

Moving from security to justice, when asked to reflect and speak about justice in Hungary, an understanding of justice as 'a sense of justice' prevails and is more significant than justice as it relates to the law and especially criminal justice. People revealed stories about conflicts where damages, justice or rights were in focus while legal process, state law, police, court, trial, penalty, were not in the focus. When explicitly asked, local residents considered legal procedures to be a slow mechanism which consume a lot of time and money and fail to punish the offender (unless in case of a serious crime). The word for justice in Hungarian is 'igazság(osság)' which is a combination of truth (igazság) and justice (igazságosság). This complex meaning of justice and truth in the Hungarian site, means that truth is an extremely important notion to consider. As was noticed throughout the interventions, different interpretations of events and situations existed depending on the group one identified with, members of these groups stated unambiguously that the truth was on their side, and often these truths were incompatible. For example, in one instance Roma mothers were complaining that the main door of the school was locked and although the non-Roma were let in, the Roma were not allowed to enter the school yard. According to the director of the school 'this is not true' and Roma are usually either late for school or do not care for it. Another way justice was articulated (mainly by the Roma) was through injustice or discrimination: exclusion from the civil life, from the job market, from the information chain, from the infrastructure. On the other hand by the non-Roma residents, distributive justice on the grounds of minority status or ethnic identity is constantly contested. Inhabitants claimed that they had to work and to save huge amounts of money to be able to buy a house in town while the Roma did not have to make efforts, as they got houses without any financial implications on their part, taking everything for granted and receiving undue benefits. They had the same claim with regards to the participation in other events in town, where the Roma did not have to buy tickets. They contest therefore the more 'compensatory' policies of the local government as unfair to the residents who work hard and have to pay taxes, tickets and everything else.

During a case of charity provision[83], there were contested ideas of who should benefit from a charity distributed by the Red Cross. Given that the Roma families had

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[83]   Deliverable 5.3., 81.

not received the charity packages, the researchers who mediated the case highlighted the different notions held by the residents. The Roma families thought they were unduly excluded, and that the charity packages went to the rich residents, while the other residents contested their claim to the charity on the basis that 'not anyone, who looks poor, is really poor' ("Even though people don't look like real poor, they could be in real need. The thing is that they try to cope with all the bad living conditions, they don't want to show their needs and poverty, but still, they are poor!").[84] In this case, the principle and criteria of eligibility, the method of distributing the packages, and the distribution of information (advertising the action) were all contested issues. The information about the distribution is withheld and therefore makes it difficult for the Roma families to know when the charity event takes place. The organiser claimed to have taken social disadvantages into account, but the eligibility is usually arbitrary and depends on a self- declaration from the participants. Discrimination and ethnic identity are not seen as due criteria for eligibility. Similar sentiments also came up in Vienna, where residents' views clash with the egalitarian policies of the City of Vienna, that demands that no citizen may be discriminated against when it comes to the access to social benefits like social housing. Openly contesting this policy, residents add the temporal element as a key consideration of welfare rights. In their perception, only people who have contributed to the building of the welfare state can claim rights to it, and clearly the immigrants came in too late for that. The paradigm of investment thus becomes paramount: who invested labour and work, should benefit. Justice thus is essentially and literally a contested concept.

2.3. Concluding thoughts

In PART TWO of this deliverable, I tackled the set of questions that deal with the ways in which we can rethink restorative justice from being a discourse that proposes an alternative way of doing justice, to becoming a discourse that proposes an alternative to the security discourse, especially in intercultural contexts. I argued that the notion of 'in-between' justice and security indicates both a possible reconciliation of the two notions and an inevitable tension. Under the theoretical framework, I traced three main discursive developments: the merging of culture with security discourses; the merging of social justice with a politics of difference; and the merging of punishment

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[84]   Deliverable 5.3., 99.

and justice with security policies. Under the action research section, I reflected on the way the notion of interculturality, security and justice are invoked, negotiated and contested in the settings.

Both as alternatives to securitisation of identity which approaches human cultures as essentialised and conflictual, and culturalised versions of identity politics which unwillingly also contribute to such portrayals, but also as alternatives to an overly evangelical and optimistic restorative accounts on human encounters and contact hypothesis, I would like to consider here two notions: conviviality and *communitas*. The notion[85] of conviviality comes originally from Ivan Illich's work *Tools for conviviality* and is based on the Latin roots of 'living-with'. Using the notion as an alternative to notions of multiculturalism, identity and culturalised politics, Paul Gilroy (2004, xi) has described the process of conviviality referring to processes of "cohabitation and interaction that have made multiculture an ordinary feature of social life." For him 'multiculture' indicates the process of cohabitation and interaction as an ordinary feature of social life. Conviviality is a social pattern in which different metropolitan groups dwell in close proximity but where their racial, linguistic and religious particularities do not - as the logic of ethnic absolutism suggests - add up to discontinuities of experience or insuperable problems of communication. They rather become unremarkable, ordinary, mundane.

This notion brings an interesting contribution also to restorative justice, which sometimes relies on overly evangelical and optimistic accounts on human encounters and contact hypothesis. According to the contact hypothesis (Allport 1958) developed in social psychology, positive contact 'under cooperative interactive conditions' helps to change stereotypes and negative attitudes towards 'outgroup members'. Research on conviviality on the opposite shows that positive encounters with minority groups do not change opinions for the better (Nowicka and Vertovec 2013, Valentine 2008). The notion is also an alternative to the more celebratory and politically correct viral notion of diversity, which while attempting to challenge the links of conflict and interculturality and deficit, makes diversity seem a sheer matter of curiosity, strength and rainbow. Conviviality on the other hand, has been characterised by a fine balance between building positive relations across difference and keeping a distance, both

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[85] Another competing notion has been the notion of civility. Sennet (2005) described civility beyond good manners, 'the capacity of people who differ to live together'. Lofland (1989) also used the notion of 'Civility towards diversity'.

avoidance of deeper contact and engagement. Everyday conviviality of boundary-crossing and interethnic solidarities is accompanied by local conflicts, ethnic exclusion and boundary maintenance. Conviviality encompasses simultaneously conflict and friendliness, and practices and situations of boundary markings and crossings. Yearning for human togetherness, and tensions and conflict constituting community life all have been shown to coexist.

The notion thus puts the emphasis instead on art of living together[86] as a fine tuned negotiation of curiosity and indifference, boundary-crossing and boundary maintenance, interethnic solidarities and ethnic exclusion, friendliness and conflicts. This negotiation also implies dealing with the tension between the political framings of intercultural difference and the mundane social interaction under conditions when cultural difference is present but has a secondary meaning (Erickson 2011). Conviviality cannot be essentialised like the notion of cultural difference, thus moving beyond an organically and naturally occurring towards an understanding that requires constant labour as well as technical and semi-formal organisation, and this is where restorative justice can provide a valuable contribution. Conviviality in everyday practices relates at the same time to people's basic need for protection and security (Vigneswaran 2014), especially under the uncertainty which shapes local convivial interactions. Research on conviviality has differentiated relations taking place between public, parochial and private realms (Wessendorf 2013, 2014). Usually parochial spaces can on the one hand create micropublic and transversal spaces, where regular togetherness can facilitate friendships across differences, but such parochial relations are seldom translated into private space, which are often divided according to ethnic and socio-economic lines. On the other hand, contestations over public space can result in tensions. Again restorative justice can provide a valuable contribution especially by creating and multiplying the parochial spaces that can increase togetherness and community.

Besides curiosity and openness towards 'the other', it has been argued that indifference to ethnic or cultural differences might also be a mode of 'dealing with diversity' (van Leeuwen 2010). This becomes especially visible in super-diverse contexts where given that one cannot take anything as given, pragmatism often takes the lead: people getting by and dealing with their everyday concerns. Treating people differently according to their backgrounds becomes meaningless because almost

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[86] Bauman (2003) called it the 'art of negotiating shared meanings'.

everybody comes from elsewhere (Vertovec 2007). Differences are acknowledged as a matter of fact and the superficial acceptance of the others does not always translate into a deeper interest in each other, because actively engaging with differences might go beyond their capacity and might be grounded in attempts to avoid tension and conflict. Neal et al. (2013) describe these 'mundane competencies for living cultural differences as 'cool conviviality' or 'light engagement'. Noble (2009) refers to acceptance of people who are different as 'unpanicked multiculturalism' contrasting it with the 'panicked multiculturalism' which dominates public discourses.[87] Being slightly more pessimistic about the so-called 'cool conviviality', we can refer to research that has shown that rise of diversity will in time reduce trust and lead to social isolation ('hunker down' – to pull in like a turtle), where inhabitants withdraw from collective life (Putnam 2007, 149-151).[88] The role of restorative justice, once again, becomes extremely important in preventing the transition to, or deepening of, low trust equilibria where lack of trust reduces interaction and breeds lower trust, especially in ethnically diverse communities (Deliverable 8.5., 131). Thus the role of restorative justice as a revitaliser of communities (we would also add here a creator of a certain idea of open community) in line with Christies' ideas of using conflicts to bring to life 'killed neighbourhoods' becomes extremely important.

The 'community' must nevertheless be different from the close bounded community usually understood as a 'common being', towards a convivial 'being together or being in common'. Restorative justice can amplify processes that challenge the identity politics which lead to exclusion and closed and fixed notions of community, by exploring alternatives notions of community (for example community as a communication process, community as togetherness).[89] Going back to Roberto Esposito (2008) we have to think the idea of community (*communitas*) and that of immunity (immunitas) as reciprocal. *Communitas* for him refers to a common *munus* (he shifts the focus from com to munus in the root of the community), which can mean both gift and obligation toward another. This is quite different from definitions of community as something which we share and have in common, or a common belonging, identity and ownership. Defined as a common obligation towards one another, community exposes each of us to a contact with another, in the face of which

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[87] Furthermore, different from our settings, research also shows that in super-diverse spaces there is little resentment between different groups with regard to social housing allocation, because there is no mythical group out there to blame (Wessendorf 2014).

[88] See Deliverable 8.5.

[89] See Deliverable 7.6.

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a process of immunisation is activated. While immunity is necessary for the protection of life, if carried past a threshold, it becomes autoimmunity and ends up destroying the very thing that protects us. In other words "raising society's threshold of attention with regard to risk... means blocking the growth of the social body, or even causing it to regress to its primitive state" (Esposito 2012, 62). An extremely fenced and walled community, would be according to Esposito's arguments then only a "perversion of the idea of community into its opposite, into one that erects walls rather than breaking them down" (Esposito 2012, 43).

Likewise, the project has argued that it is necessary to move away or at least correct an idea of security based on an excessive focus on technology, surveillance and control which produce feelings of insecurity instead, towards an idea of security that is less paranoiac and nourishes human relations through participation, encounter and dialogue. Thus if security must be, then let it be a deep kind of security, based on relations and trust. By focusing on human relations, on rebuilding and revitalising communities, with its contact and dialogue approach, restorative justice can challenge the current immunitary tendencies that characterise the security discourse. Shattering the idea of 'cultural difference' as insecurity, restorative justice can contribute to the unveiling of relations of power in communities and especially focus on the differences which are conditioned by political inequality or economic exploitation, moving thus beyond a 'culturalised politics'. Bringing in the picture concerns about social justice becomes also important in the light of the disputes that were visible in the sites with regards to distribution policies. Referring to research from Alesina and La Ferrara (2002) and others (Collier 2013, Kumlin and Rothstein 2005)[90] which show that the rise in cultural diversity reduces the willingness to redistribute income and public goods, and the type of design of social policies matters for the production of social capital and social trust, Ragazzi argues that restorative justice's contribution towards the revitalisation of and restoration of trust in the 'communities' must focus towards unearthing material production and redistribution issues instead of cultural values.

In doing that, restorative justice can be realigned with the emancipation approach of the security studies which argues that the study of security must be oriented towards the identification, analysis and redressing of the insecurities affecting individuals and groups in particular contexts (Both 1991), rather than with the social management of a crime approach. Insecurity in this context is seen as a multifaceted condition –

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[90] See Deliverable 8.5.

constituted of a network of oppressive relations and structures (economic, social and political) – that determines the lives of individuals and groups. An emancipatory account of security has two tasks: first, it must investigate the assumptions, structures and relationships that are implicated in the production and maintenance of insecurities. And second, it must identify ways for transforming predominant arrangements entailing radical change in the distribution of power and in the way that power is conceived and exercised. Clearly there are similarities in this approach to what Nancy Fraser's (2003) has called the 'political aspect of justice' (as parity of participation), according to which overcoming injustice means dismantling institutionalised obstacles that prevent some people from participating on a par with others, as full partners in social interaction. This idea of emancipation also reminds of Žižek's call for a new global solidarity based in emancipatory struggle. In such a struggle: "it is not the cultures in their identity which join hands, it is the repressed, the exploited, the suffering, that "parts of no-part" of every culture which come together in a shared struggle" (Žižek 2008, 133-134).

CONCLUSIONS

The essential concern in the ALTERNATIVE project has been to understand what restorative justice means as an idea and practice in relation to other ideas, practices and institutions, and what it means in the broader social, economic and political context. More specifically, this deliverable was an exploration into the potential role of restorative justice in addressing conflicts taking place in intercultural contexts in Europe, as well as in becoming an alternative discourse of both justice and security.

Restorative justice in intercultural settings

In understanding restorative justice as a discourse that articulates a sustained and coherent response to wrongdoing, the project by focusing instead on conflict, has not intended to challenge the core focus of restorative justice, but to strengthen it. New language was used, new ideas were proposed (or old ideas revisited), new links were made and new insights were gained.

Why restorative justice in intercultural settings? Such settings offer fertile ground for understanding frames of (in)justice and (in)security and their intersection, for exploring ideas of participation and communication, and for creating alternative ideas of communities and living together.

Many features of and ideas within restorative justice were fruitful for understanding such contexts and at the same time working and thinking on these contexts, enriches and challenges the field or restorative justice enormously. In what follows some of these insights are presented briefly and succinctly. If the reader is interested in deeper reflections or background empirical or theoretical knowledge, a return to the sections in this deliverable and a tour into the other project deliverables is advisable.

● The restorative interventions in different settings depend on the nature of local relationships, resources (social, cultural, material and economic) and socio-political and cultural contexts, and therefore different tools, strategies and processes must be used from social actors.

● Restorative justice approaches in intercultural communities can capitalise on the core elements of *lifeworld, participation, reparation and transformation*. These notions constitute important links to action research, justice and security, and interculturality.

● A focus on *lifeworld* (with its thickness, context, multiplicity, openness) in itself can counteract tendencies of totalising views, essentialised identities, imagined others or established subject positions. Nevertheless, the notion also indicates the inevitability and the importance of *framing* by social actors and institutions.

● The frames (of subjectivities, acts, practices, conflicts, expectations) are so important as to lead a process towards certain ends, therefore it becomes crucial to *rethink the individualising frames* used for certain conflicts and try to imagine other possible ways that enable other outcomes.

● A normative and non-instrumental focus on participation is needed (participation for its own sake). At the same time, despite its normative potential, *participation*

comes with qualifications (participation for whom, how, why and to what ends?), therefore we should be aware with what agenda and what effects we promote participation.

● The notion of '*conflict-participation*' (or even 'conflictual participation') that questions power relations and creates dissensus is useful to consider, mainly to counteract the tendencies of using participation as a way to reach consensus that confirms the status-quo or as non-participation. No 'ideal speech situation' exists and power relations are never suspended, thus the scope for restorative interventions must not be crafting agreement and consensus, but staging constructive expression of disagreements.

● We have to move from an emphasis on the containment of social conflict that might otherwise encourage political resistance to an unjust political and economic order, to the *nurturing and cultivation of social conflicts*. Restorative justice can promote new forms of social action by creating and staging forums of 'endless processes of discussion', bringing conflicts to the forefront of the political scene. It is especially important in intercultural settings to move from a focus on rules and conduct of conduct towards a proliferation of processes that lead to 'norm clarification', substantial elaborations of what constitutes living together.

● The focus of restoration must move towards the paradoxical notion of '*restoring the future*' - making arrangements for better living together - rather the restoration of damage with a view at the past. Furthermore, *restoration of communication, trust and cooperation* rather than restoration of damage or harm, seems to be a major aim of a restorative approach in intercultural settings.

● The position of the researcher as *an uninvited outsider* who has the potential to productively disrupt local dynamics and in rearranging the social forces, and of the mediator as *a resource-person* who helps to stage conflicts without taking them over or redefining them are useful to consider.

● *Social justice* as a concept should become a vital focus for restorative justice. The role of restorative justice is crucial in maintaining a balance between a single case or

an act and the large societal context in which it occurred, calls for a 'dual thinking' in which we condemn the act but also ask how it came about, enabling people to name and voice their experience but also place it in context.

● *Engagement* with the world and *encounters* with others are the main tools for disabling stereotypes, misattributions, judgements, and for practicing feelings of trust and empathy, and will lead people to acquire a sense of complexity which leads to change the representation of the 'other', promote more accurate perceptions, reduce social distance, disable stereotypes and misattributions, contribute to the creation of a common lifeworld and eventually instigate common and collective actions.

● Reparation or restoration in intercultural and complex communities entails often a *radical reconfiguration of social dynamics*, based on creativity, strong focus on the future and unpredictability. Therefore we need to move from closed and predictable processes that try to manage situations towards 'open-ended' and unpredictable processes. Ambiguous and undefined processes can set in motion larger cooperative and transformative processes, but researchers and mediators need to feel comfortable with unpredictability and ambivalence.

● *Neutrality does not exist* anywhere, even less in complex sites and social configurations. It is impossible in any intervention to ignore the local social stratification, power relations and existing gate-keeper roles, and any action taken by social actors implies making a choice and often taking a position. This awareness must not immobilise or hinder actions, but inform them.

● The notion of 'conflict as property' has to be more radically understood and approached as *conflict as common property*. In complex sites, conflicts are often taking place in the 'battlefield' of cultural representation, of lifeworld uncertainties, of differential allocation of precarity and therefore are the best forums to stage issues of (in)justice and (in)securities.

● Silence can be a plan rigorously executed. Understanding and respecting the role and function of silence (and even the right to silence) in a community does not mean nevertheless taking it at a face value. Every instance where restorative actions are

tasked with making visible and sayable that which a particular configuration of power renders invisible and unspeakable, needs to be appreciated. The *culture of silence* furthermore leads to stereotypical depictions about others and hardening of homogeneous identities.

● The *advantages* that come with the lack of the shadow of coercion and pre-established subject positions, like freedom of participation, voluntariness, open framing, must be balanced against *disadvantages* like lack of legitimacy, failure to take responsibility, to reach outcomes, to implement agreements. Furthermore, in intercultural communities a *proactive approach* as compared to a reactive approach is needed. Finally, a constant negotiation of one's own position within the community, building trust and adapting ones' methods are also crucial.

● We have *to change the register for the evaluation of restorative practices* and move attention away from the outcome towards participatory processes. We need therefore to move beyond an emphasis on outcomes (agreement, reparation of harm, reconciliation, pacification) and efficiency towards the restorative process and its potential. In evaluating such a process we can ask about the extent to which the restorative process has staged different values, located and communicated contradictions, and clarified different social norms among the members of a community; the degree to which the process that unblocked dialogue and challenged the monologising forces and voices; the degree to which the process has uncovered inequities which might have generated the conflict; the effectiveness of the process in nurturing the conflict and creating collective actions that aim to challenge the status quo.

Restorative justice between justice and security

Restorative justice has been proposed within the project as a counter-security approach in intercultural settings, arguing that it was necessary to move away or at least correct an idea of security based on an excessive focus on technology, surveillance and control which amplified instead feelings of insecurity, towards an idea of 'deep' security, a security that nourishes human relations through participatory practices, encounters and dialogue.

It was also argued that the heightened and obsessive concern about security has put at risk other values, principles and concerns, of which justice was argued to be the most important and therefore the project proposed a need for balance between justice and security. The terminology 'between' justice and security already hints at two possibilities: both a reconciliation and an inevitable tension between the two notions.

It was further argued that the discourse of (in)security have attributed inevitable social conflicts to intercultural societies which has led to a 'culturalisation' of conflicts and when these conflicts have arisen, immunitary mechanisms have been created for social groups to coexist (like gated communities, fences, membership areas).

The project intended both to understand and challenge such a culturalised framing of conflicts, through social justice oriented, participatory and communication-based approaches to the handling of conflicts. Here I will sketch some insights and conclusions with regards to this ambivalent position of restorative justice.

● Reading the trends towards the *culturalisation of politics* together with the notions of biopower, racism, the apparatus of security and the paradigm of immunity helps to understand the current trends towards the merging of security with migration, the unification of external and internal security, the persistence of fear and insecurity-politics, the constant creation and maintenance of hierarchies and divisions in societies, and as a consequence the endangerment of justice, community life and collective actions.

● Nevertheless, the implications of this analysis are also that both the security apparatus and racism as a biopolitical technology are constitutive elements of our democracies instead of exceptional features, therefore their effects cannot be wished away and the solutions proposed cannot be cosmetic. At the same time, reading security as a technology of immunity also indicates that a certain level of immunity is vital to a community and only a high level of immunity is what endangers a community. Thus in intercultural communities not boundary-making or boundary-maintenance in itself is the problem, as long as this goes along with simultaneous processes of boundary-unmaking. Rigid and hermetic boundaries which can feed homogeneisation, essentialisation and therefore demonisation of the other are the problem. The main problem of 'difference' is never difference *per se* but the fact that it always comes in a

hierarchical or divisive matter (if you are good then the other is evil), indicating the importance of framing as a political process.

● It this regard the importance of *frames* with its operations of division and hierarchisation at place to produce worthy and unworthy lives comes back into the picture. Countering these tendencies would mean moving towards the recognition of precariousness as a *shared condition* of all human life. And it is the differential allocation of precarity that forms the point of departure for a rethinking of a progressive politics of social justice in ways that continue to exceed and traverse the categories of identity. Identities are constituted within the shifting field of historically constituted social relations and their value cannot therefore be located in and of themselves as isolated entities but in the dialogic nature of social interaction.

● Furthermore, reading justice first of all beyond metaphysical terms and second beyond the narrow understanding within criminal justice system, leads the pursuit towards sketching a political understanding of justice instead, that is: what does justice mean in relation to the *plurality* of our societies?

● To fully embrace this pursuit, the suggestion was made to move beyond both an understanding of justice as fairness, represented by the idea of the 'veil of ignorance' and the understanding of justice as a *procedure* of 'ideal speech situation', towards a a *multidimensional idea of justice* which keeps the core elements of redistribution, recognition and representation (the political) interrelated rather than in a paradigmatic struggle.

● Furthermore, we need to move away from identity-affirming remedies and affirmative redistribution measures to *transformative remedies and policies* that deconstruct the whole cultural-valuational structure, challenge the overall system of production and undermine social inequality without creating stigmatised groups.

● Bringing back justice considerations to counter the primacy of security, is important also for the narrow considerations of justice as penal justice. Recent trends in crime control and management indicate a move towards *a security society* even at the heart of criminal justice system, whereby crime is being redefined from an action that breaks

the law, to one of the other threats and risks in society that leads to insecurity, a risk that must be forestalled, leading even to the notion of *pre-crime*. When justice is governed by the utilitarian rationale of protecting the public, it dissolves into the pursuit of security and becomes preventative.

● Although restorative justice fits with a preventive scope, pre-crime orientation and a risk-based logic of security, and is deemed able to bridge between the orientations of justice and security, *this emphasis must come with qualifications*. The proliferation of restorative justice as a technology of conflict may be desirable only if it accords with the goal of public participation as a social activity which leads to endless *norm-clarification* (transformation, reconfiguration, social justice), rather than speedy crime prevention and management. Other ways of thinking towards the future that are not prevention oriented but *prospective* oriented must be elaborated. Thus while on the one hand restorative justice requires a 'small state' in the criminal justice sense, on the other hand it requires a 'strong welfare' state.

● There are both conditions of possibility and impossibility for restorative justice to contribute towards security. First of all, there is not much restorative justice can offer when the settings are heavily securitised, since deliberation and dialogue are not compatible with urgency, on the opposite justice in general and any form of political deliberation is threatened under such conditions. Nevertheless, the need to counteract heavily securitised dynamics is the highest especially when this becomes restorative justice's condition of impossibility. Security feeds on the affect of fear, so *other affects* like trust and solidarity need to be promoted to counteract fear. Securitisation also feeds on dualistic (hierarchical and divisionary) frames of responsibility, thus *counteracting those frames* becomes paramount. Finally, everyday security can become more *sustainable* if it relies on encounters, dialogue and participatory actions, and only meeting real others makes a difference in counteracting images and ideologies that promote fear.

● Security must be realigned with an emancipatory approach, where security and social justice are part of the same agenda. When talking about security if we must, we must prioritise social security and we must put the focus on insecurities that usually groups that are feared go through, like the Roma, the refugees. Shattering the idea of 'cultural

difference' as insecurity, restorative justice can contribute to the unveiling of relations of power in communities and especially focus on the differences which are conditioned by political inequality or economic exploitation, moving thus beyond a 'culturalised politics'. At the same time, recognising that intercultural sites involve uncertainty of general sharing of norms, expectations, language subtexts bridging differences in the *lifeworld* background has its own importance. We can *decouple culture from conflict while still critically understand the link.*

● Security concerns (especially in intercultural communities) risk pushing towards isolation and hunkering down of communities into immunitary forms of coexistence, where inhabitants withdraw from collective life, therefore the role of restorative approaches as a counter-acting force towards becoming a *revitaliser of communities* is extremely important. Multiplication and transformation of common spaces, and the role of women as key agents of such endeavours become important especially in the light of the role of public space in the proliferation of conflict and the role of women as key markers of certain 'cultures'.

● The 'community' must nevertheless be different from the close bounded community usually understood as a 'common being', towards a *convivial 'being together, or being in common'.* Restorative justice can amplify processes that challenge the identity politics which lead to exclusion and closed and fixed notion of community, by exploring alternatives notions of community, like 'community as a communication process' or 'community as togetherness'.

● To conclude, restorative justice can become *a tool for conviviality* (living together). Conviviality has been characterised by a fine balance between building positive relations across difference and keeping a distance, both avoidance of deeper contact and engagement. Yearning for human togetherness, and tensions and conflict constituting community life all have been shown to coexist. The notion thus puts the emphasis instead on the *art of living together* as a fine-tuned negotiation of curiosity and indifference, boundary-crossing and boundary maintenance, interethnic solidarities and ethnic exclusion, friendliness and conflicts, that requires constant labour as well as technical and semi-formal organisation, and this is where restorative justice can provide a valuable contribution.

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ALTERNATIVE Project documents

N.	Date	Author	Title	Public	Place
D4.1	2013-01	Kremmel, Katrin; Pelikan, Christa	Theoretical Research Report on Activating Civil Society	Yes	Vienna
D4.2	2014-01	Kremmel, Katrin; Pelikan, Christa	Living together in the *Gemeindebau* in Vienna. On Tensions, Conflicts, Fears and Hopes	Yes	Vienna
D4.3	2014-07	Kremmel, Katrin; Pelikan, Christa	Qualitative research report on conflict resolution work		Vienna
D4.4	2015-07	Kremmel, Katrin; Pelikan, Christa	Towards restorative circles: Action research interventions in Vienna's social housing estates		Vienna
D4.5	2015-11	Kremmel, Katrin; Pelikan, Christa	Follow-up materials for supporting RJ activities in intercultural settings		Vienna
D5.1	2013-02	Berkovits, Balázs; Balogh, Eszter	Theoretical report on the main concepts in the communities: securitisation and minorities	Yes	Budapest
D5.2	2014-01	Hera, G., Györfi, É., Szegő, D., Balla, L., Kelemen, K., Benedek, G. (ed.)	Community problem analysis: Building The Bridges of Trust With and Within The Communities		Budapest

N.	Date	Author	Title	Public	Place
D5.3	2015-09	Benedek, G. (ed.) - Hera, G – Kelemen, K. - Győrfi, É. - Balla, L.- Szegő, D.	Implementation report on the application of RJ in the community: grasping action and research		Budapest
D5.4	2015-10	Szegő, D., Benedek, G. and Győrfi, É.	Evaluation and follow up report	Yes	Budapest
D5.5	2105-11	Héra, Gábor	Comprehensive final report on RJ in intercultural communities	Yes	Budapest
D7.6	2015-12	Chapman, T., Campbell, H., Wilson, D. and McCready, P.	A report on the research into the process and outcomes of restorative responses	Yes	Belfast
D8.5	2015-11	Ragazzi, Mario	Report on comparative analysis in the action research sites	Yes	Leuven