



## **Sociology of Juvenile Criminal Law: Critical Perspectives on Rehabilitation and Restorative Justice**

### **Sociología del derecho penal juvenil: Perspectivas críticas sobre la rehabilitación y la justicia restaurativa**

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#### **ABSTRACT**

This article aims to analyse the sociology of juvenile criminal law from a critical perspective on rehabilitation and restorative justice. The research was conducted using a legal documentary approach. Four documentary categories have been identified as essential to develop in order to manage an effective and equitable juvenile criminal justice: i) Principles and foundations of restorative justice, ii) Practices and approaches to juvenile rehabilitation, iii) Comparison of juvenile criminal justice systems, iv) Socio-educational impact of socio-educational measures. These documentary categories underline the need for cultural and organisational change within judicial institutions, as well as the importance of effective and consistent implementation of restorative practices. Well-implemented restorative justice and socio-educational measures can facilitate reintegration and reduce recidivism rates.

Descriptors: civil and political rights; right to justice; constitutional law. (Source: UNESCO Thesaurus).

#### **RESUMEN**

Este artículo tiene como objetivo analizar la sociología del derecho penal juvenil desde una perspectiva crítica sobre la rehabilitación y la justicia restaurativa. La investigación se llevó a cabo utilizando un enfoque documental jurídico. Se han identificado cuatro categorías documentales que son esenciales desarrollar para gestionar una justicia penal juvenil efectiva y equitativa: i) Principios y fundamentos de la justicia restaurativa, ii) Prácticas y enfoques de rehabilitación juvenil, iii) Comparación de sistemas de justicia penal juvenil, iv) Impacto socioeducativo de las medidas socioeducativas. Estas categorías documentales subrayan la necesidad de un cambio cultural y organizacional dentro de las instituciones judiciales, así como la importancia de una implementación efectiva y consistente de las prácticas restaurativas. La justicia restaurativa y las medidas socioeducativas bien implementadas pueden facilitar la reintegración y reducir las tasas de reincidencia.

Descriptores: derechos civiles; derecho a la justicia; derecho constitucional. (Fuente: Tesoro UNESCO).

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**Research articles section**



## INTRODUCTION

The sociology of juvenile criminal law has experienced considerable interest in recent years, due to the need to effectively address rehabilitation and restorative justice for young offenders. This field focuses on understanding how criminal laws, institutions and practices affect young people, as well as identifying strategies to promote their social reintegration. Juvenile criminal justice has traditionally been marked by punitive approaches that do not always succeed in reducing recidivism and promoting positive youth development. However, restorative justice has emerged as an alternative paradigm that seeks to repair the harm caused by crime through the participation of the victim, the offender and the community, thus promoting reconciliation and rehabilitation.

The study by (Acosta-Stéfani, 2019) highlights the importance of restorative justice as a new paradigm in juvenile justice, highlighting its potential to transform the way in which juvenile offending behaviour is addressed. Furthermore, research such as that of (Bernal-Sánchez & Lescano-Galeas, 2021) underlines the need to re-signify criminal justice, analysing comparative practices between Ecuador and Mexico to identify better approaches to juvenile rehabilitation. In this vein, (Coloma-Villacís, 2022) critically reviews the principles of juvenile justice in Ecuadorian jurisprudence, highlighting the importance of integrating restorative approaches into the legal system.

Restorative justice is not only focused on punishment, but on the restoration of social balance, which implies a significant change in the way young offenders are perceived and treated. Studies such as that of (Maldonado-Ordoñez & Cabrera-Cabrera, 2023) analyse the juvenile penal system in Ecuadorian legislation, emphasising the need to adopt this new paradigm to improve results in juvenile rehabilitation. Likewise, comparative research on juvenile criminal justice systems in different countries, such as that conducted by (Reyes-Quilodrán et al. 2018), offers valuable insights into the effectiveness of restorative justice. In this context, it is crucial to critically explore the theoretical and practical perspectives of juvenile



criminal justice and restorative justice, as well as their impact on the rehabilitation of young offenders.

This article aims to analyse the sociology of juvenile criminal law from a critical perspective on rehabilitation and restorative justice.

## **METHOD**

The research was conducted using a legal documentary approach, which focuses on the critical analysis of secondary sources relevant to the study of the sociology of juvenile criminal law, specifically on critical perspectives on rehabilitation and restorative justice. This method is considered appropriate due to the interdisciplinary and theoretical nature of the topic, which requires a thorough understanding of the legal, sociological and pedagogical concepts involved.

To ensure the relevance and quality of the sources used, an exhaustive search was conducted in academic databases such as Scopus, Scielo, Redalyc and Google Scholar. Fifteen scientific articles published in the range of 2016 to 2023 were selected, focusing on empirical studies, systematic reviews and theoretical analyses addressing juvenile criminal justice and restorative justice. Inclusion criteria included thematic relevance, methodological rigour and timeliness of the publications.

The content analysis was carried out through a critical reading of the selected sources, identifying the main theoretical and practical approaches to rehabilitation and restorative justice for young offenders. Special attention was paid to comparative studies between different legal systems, as well as to relevant jurisprudence and legal frameworks in countries such as Ecuador, Mexico, Argentina, and others mentioned in the literature reviewed.

### **Thematic Categorisation**

The sources collected were categorised into different themes, including:

1. Principles and foundations of restorative justice: Exploring the theoretical and philosophical bases of restorative justice, and how these apply in the



- context of juvenile criminal law (Molina-Vergara, 2022; Rodríguez-Zamora, 2016).
2. Youth rehabilitation practices and approaches: Analysis of rehabilitation programmes and policies that incorporate restorative elements, evaluating their effectiveness and the challenges encountered (González-Laurino, 2020; Fernández, 2018).
  3. Comparison of juvenile criminal justice systems: Comparative study of different legal systems and their approaches to juvenile criminal justice and restorative justice (Reyes-Quilodrán et al., 2018; Bernal-Sánchez & Lescano-Galeas, 2021).
  4. Socio-educational impact of socio-educational measures: Evaluation of the impact of socio-educational measures on the social reintegration of young offenders (Maldonado-Cando et al., 2022; Tello-Gilardi, 2022).

## **ANALYSIS OF THE RESULTS**

Once the sources had been categorised, the most relevant findings were synthesised, integrating different perspectives and theoretical contributions. This process included the identification of common patterns, divergences and areas of opportunity for future research. Critical reflection focused on assessing the applicability of restorative approaches in diverse socio-cultural and legal contexts, considering practical implications and existing barriers.

### **1. Principles and foundations of restorative justice**

Restorative justice is based on a set of theoretical and philosophical principles that prioritise repairing the harm caused by crime through the participation of the victim, the offender and the community. This approach seeks to redefine the traditional response to crime, which has historically focused on punishment, towards a more constructive and rehabilitative orientation (Molina-Vergara, 2022). According to (Rodríguez-Zamora, 2016), restorative justice is based on the premise that crime not only breaks the law, but also causes significant interpersonal harm that must be repaired to restore social balance. This paradigm emphasises the importance of dialogue, reconciliation and shared responsibility, promoting a process in which all



parties affected by crime work together to achieve true social reintegration of young offenders.

The restorative approach integrates concepts of retributive justice and distributive justice, focusing on reparation of harm, restitution and rehabilitation of the offender. This paradigm seeks not only to punish the offender, but also to educate and rehabilitate him/her, thereby reducing recidivism rates and fostering a safer and more cohesive social environment. Furthermore, restorative justice emphasises the importance of empowering victims, providing them with a voice in the justice process and the opportunity to receive adequate compensation for the harm they have suffered.

## **2. Youth rehabilitation practices and approaches**

Juvenile rehabilitation programmes that incorporate restorative elements have proven to be highly effective in reducing recidivism and promoting the positive development of young offenders. In this vein, (González-Laurino, 2020) highlights that juvenile justice policies in Uruguay have attempted to implement reforms that include restorative practices, although these have faced significant challenges due to institutional resistance and lack of adequate resources. These programmes often require considerable investment in training and capacity building for both justice system professionals and young offenders.

On the other hand, (Fernández, 2018), in his analysis of the Reference Centres in the Province of Buenos Aires, describes how these centres adopt a cultural and restorative approach in their approach to youth rehabilitation. These centres have managed to create more inclusive and supportive environments for young people, promoting their social and educational reintegration. Interventions in these centres focus on education, vocational training and psychological support, seeking to address the underlying causes of delinquent behaviour and provide young people with the necessary tools to build a productive and crime-free future.



### **3. Comparison of juvenile criminal justice systems**

Comparison of different juvenile criminal justice systems reveals varied approaches to restorative justice and rehabilitation. In this regard, (Reyes-Quilodrán et al. 2018) examine systems in Sweden, England, Italy and Chile, finding that those countries that have adopted restorative practices tend to show better results in terms of victim satisfaction and reduced recidivism. These systems have successfully integrated restorative justice into their policies and judicial procedures, creating a legal and social framework that supports the rehabilitation and reintegration of young offenders.

In contrast, (Bernal-Sánchez & Lescano-Galeas, 2021) note that in Ecuador and Mexico, although there are efforts to re-signify criminal justice, restorative practices are not yet fully integrated into the judicial system. These countries face significant challenges in terms of resources, training and cultural changes needed to effectively implement restorative justice. The findings suggest that the effective implementation of restorative justice requires not only legislative changes, but also a cultural and organizational transformation within judicial institutions.

### **4. Socio-educational impact of socio-educational measures**

Socio-educational measures play a crucial role in the social reintegration of young offenders. In this order, (Maldonado-Cando et al. 2022) evaluated the effectiveness of these measures in Ecuador, finding that, although there are programmes designed to offer educational and psychological support, their implementation is often inconsistent and lacks adequate follow-up. These measures include educational and training programmes that aim to provide young people with the skills and knowledge necessary to successfully integrate into society.

While (Tello-Gilardi, 2022) stresses the importance of considering intersectionality in the implementation of restorative juvenile justice, arguing that interventions should be tailored to the specific needs of each young person, considering factors such as gender, ethnicity and socio-economic context. Well-implemented socio-educational measures can facilitate reintegration and reduce recidivism rates, contributing to a more inclusive and equitable society. These interventions not only



address the immediate needs of young offenders, but also work to transform the social structures that contribute to youth offending, promoting long-term systemic change.

### Theoretical contrast

Theoretical contrastation was carried out taking into account the documentary categories with the theoretical position of various authors, based on what is set out in table 1.

**Table 1.** Theoretical foundations of the documentary categories.

Section	Authors
Principles and Foundations of Restorative Justice	Acosta-Stéfani (2019), Molina-Vergara (2022), Rodríguez-Zamora (2016)
Juvenile Rehabilitation Practices and Approaches	González-Laurino (2020), Fernández (2018), Maldonado-Ordoñez & Cabrera-Cabrera (2023)
Comparison of Juvenile Criminal Justice Systems	Reyes-Quilodrán, LaBrenz & Donoso-Morales (2018), Bernal-Sánchez & Lescano-Galeas (2021), Coloma-Villacis (2022), Orosco-Aguilar & Pineda Cando (2023)
Socio-educational Impact of Socio-educational Measures	Maldonado-Cando, Bustamante-Vera & Cabrera-Grand (2022), Tello-Gilardi (2022), Kostenwein (2018), Tantaleán-Olano, Rojas-Luján, Yache-Cuenca & Recalde-Gracey (2023), Vázquez Martínez & Bazán Mayagoitia (2019)

Source: Own elaboration.

Based on the above, restorative justice is based on a series of principles that prioritise the reparation of the harm caused by the crime, promoting the participation of the victim, the offender and the community (Molina-Vergara, 2022). This approach represents a significant departure from the traditional punitive model, focused exclusively on punishment, towards a more constructive and rehabilitative orientation. Therefore, (Rodríguez-Zamora, 2016) points out that restorative justice not only addresses the legal offence, but also the interpersonal harm, promoting dialogue, reconciliation and shared responsibility.

Likewise, (Acosta-Stéfani, 2019) reinforces this perspective by highlighting that restorative juvenile justice is presented as a new paradigm, focused on the



reparation of harm and the social reintegration of young offenders. This approach, which integrates concepts of retributive and distributive justice, seeks not only to punish, but also to educate and rehabilitate the offender, reducing recidivism rates and fostering a safer and more cohesive social environment.

Juvenile rehabilitation programmes that incorporate restorative elements have proven to be highly effective. In this vein, (González-Laurino, 2020) discusses reforms in the Uruguayan juvenile penal system, noting that, although they face institutional and resource challenges, restorative practices have significant potential to improve rehabilitative outcomes. On the other hand, (Fernández, 2018) analyses the Centros de Referencia in the Province of Buenos Aires, highlighting how they adopt a cultural and restorative approach to youth rehabilitation, creating inclusive environments that promote social and educational reintegration.

While (Maldonado-Ordoñez & Cabrera-Cabrera, 2023) underline the need for effective implementation of restorative justice in Ecuadorian legislation, arguing that, to be truly effective, it must be supported by a cultural and organisational change within the judicial system.

Likewise, (Reyes-Quilodrán et al. 2018) provide a comparative analysis of juvenile criminal justice systems in Sweden, England, Italy and Chile. They found that countries that have integrated restorative practices into their judicial policies tend to have better results in terms of victim satisfaction and reduced recidivism. This successful integration of restorative justice into judicial systems creates a legal and social framework that supports the rehabilitation of young offenders.

In contrast, (Bernal-Sánchez & Lescano-Galeas, 2021) point out that in Ecuador and Mexico, although there are efforts to re-signify criminal justice, restorative practices are not yet fully integrated. The effective implementation of these practices requires not only legislative changes, but also a cultural and organisational transformation within judicial institutions.

Accordingly, (Coloma-Villacís, 2022) analyses the principles of juvenile justice in the jurisprudence of the Constitutional Court of Ecuador, highlighting the need for a critical review and the implementation of restorative practices to improve juvenile





justice outcomes. In addition, (Orosco-Aguilar & Pineda Cando, 2023) present a critical look at juvenile criminal responsibility in Ecuadorian legislation and comparative law, highlighting the discrepancies between theory and practice in the implementation of restorative approaches.

Socio-educational measures play a crucial role in the social reintegration of young offenders. Accordingly, (Maldonado-Cando et al. 2022) evaluated the effectiveness of these measures in Ecuador and found that, although there are programmes designed to offer educational and psychological support, their implementation is often inconsistent and lacks adequate follow-up.

While (Tello-Gilardi, 2022) stresses the importance of considering intersectionality in the implementation of restorative juvenile justice, arguing that interventions should be tailored to the specific needs of each young person, considering factors such as gender, ethnicity and socio-economic context. Well-implemented socio-educational measures can facilitate reintegration and reduce recidivism rates, contributing to a more inclusive and equitable society.

Likewise, (Tantaleán-Olano et al. 2023) highlight the effectiveness of restorative justice in community conflict resolution in Cajamarca, Peru, showing how these practices can be adapted to address specific problems in different social contexts.

In contrast to the above, (Vázquez Martínez & Bazán Mayagoitia, 2019) discuss the procedural and structural challenges in the implementation of restorative justice and social reintegration, highlighting the need to overcome institutional and cultural barriers to achieve effective implementation. While (Kostenwein, 2018) provides a theoretical and practical perspective on the sociology of criminal justice, highlighting the need for theoretical precisions and practical distinctions to better understand the impact of socio-educational measures on juvenile rehabilitation.

## **CONCLUSION**

The importance of implementing restorative justice and socio-educational measures in the rehabilitation of young offenders is highlighted. Four documentary categories have been identified as essential to develop in order to manage effective and



equitable juvenile criminal justice: i) Principles and foundations of restorative justice, ii) Practices and approaches to juvenile rehabilitation, iii) Comparison of juvenile criminal justice systems, iv) Socio-educational impact of socio-educational measures. These documentary categories underline the need for cultural and organisational change within judicial institutions, as well as the importance of effective and consistent implementation of restorative practices. Well-implemented restorative justice and socio-educational measures can facilitate reintegration and reduce recidivism rates, contributing to a more inclusive and equitable society.

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## CONFLICT OF INTEREST

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