

Comparative Analysis of the Evolution of Juvenile Delinquency and Effectiveness of Penal Sanctions: Methodological Solutions and New Challenges

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Abstract

This article analyzes the evolution of the profile of juvenile offenders and their criminal activity in the Spanish Autonomous community. We will compare three samples of the Justice Plan carried out by the authors from 2003 to 2013. The sample group covered 283 youths in the first study (2003), 553 in the second study (2006) and 542 in the third study (2009). The results indicate a substantial increase in both the number of young offenders and the number of offenses committed. Changes were also detected in the type of delinquent behavior engaged in, with the emergence of new problems such as child-to-parent violence, which was negligible ten years ago. The discussion offers a comparative analysis of the results found herein with those reported by literature both in Spain and internationally, using age, recidivism and gender as parameters. Finally, the paper outlines some of the future challenges for the Juvenile Justice System such as interventions with recidivist minors, female delinquency and offenses committed in digital contexts.

Keywords: Juvenile delinquency; Recidivism; Juvenile justice

Introduction

Much of the work carried out by the scientific and academic community in the field of Law, Psychology, Victimology and Criminology (among others) focuses on the issue of criminal offenses committed by minors [1]. In addition to this, the media also give a broader coverage of criminal acts perpetrated by minors, often placing the emphasis on the cruelty of certain actions and on occasions offering a somewhat biased interpretation of the statistics. The result is invariably an immediate public outcry and a demand for a more punitive response by the authorities, as the only means of stemming the perceived tide of juvenile delinquency. Thus, society as a whole may develop a social representation of juvenile offenders and the acts of delinquency they commit that is far removed from the reality that academics strive to analyze and explore in an objective manner [2].

This situation is especially noticeable in the case of foreign minors, regardless of their significant vulnerability to the risk of social exclusion. Society in general, and in particular communities that receive the greatest influx of immigrants, tend to have a general image of foreign minors that is closely linked to the idea of transgression and rule breaking [3]. Consequently, on more than one occasion it has been necessary to state the obvious in different forums, that not all foreign minors are delinquents.

In any case, juvenile delinquency has changed substantially over recent years as is clearly evident in the analysis of the three samples that we have conducted over different periods. The profile of youth offenders associated with minors with little education, from families with a low socioeconomic level, who live in underprivileged neighborhoods, etc., is no longer the only profile we find today [4]. The type of offenses committed has also changed, with the emergence over recent years of delinquent activities unheard of to date, such as child-to-parent violence [5] or the gradual increase of criminal offenses perpetrated by girls [6]. The environment in which these offenses take place has also changed, with the Internet and digital contexts in general constituting a new type of crime scene. On the positive side, educational sanctions to combat delinquency have improved substantially thanks to the gradual implementation of community sentences, specific programs for specific

problems and the increased degree of specialization of those working with youth offenders on a daily basis [7].

In order to explore these issues in more detail, this research project is based on three samples of the Youth Justice Plan in the Spanish Autonomous community, which were carried out over the course of the last decade. Despite the limited scope of our analysis, our aim is not to provide a merely local assessment since, due to socio-demographic similarities; we believe that the results obtained can be extrapolated, in broad terms at least, to the whole of Spain [8]. Additionally, the paper outlines some of the future challenges for the Juvenile Justice System such as interventions with recidivist minors, female delinquency and offenses committed in digital contexts.

Method

Participants

The empirical work covers three different samples conducted following identical procedures, at three different moments in time, with the aim of assessing the evolution of juvenile delinquency over the past decade. The sample group of the first study includes all minors who completed at least one educational sanction arising from a conviction in 2003 (a total of 283 subjects). The sample group of the second study consisted of all minors who completed an educational sanction arising from a conviction during 2006. In this case the sample group covered 553 individuals. And finally, the third study takes into

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account the 542 youths who completed an educational sanction arising from a conviction in 2009. In total, 1,378 cases are analyzed. In all three samples the mediation and restorative justice were excluded.

To begin, we established a set of criteria for, on the one hand, identify the starting sentence (Criterion 1 and 2) and, secondly, to include subjects in the analyses (Criterion 3).

- **Criterion 1:** In the event of a subject completing more than one educational sanction arising from an conviction during the aforementioned years, the one that most restricted their liberty was selected, in accordance with the Act regulating the Criminal Liability of Minors.
- **Criterion 2:** In the case of a subject completing more than one educational sanction of the same nature during the years analyzed, the sanction that was completed first in chronological order was selected.
- **Criterion 3:** The minor's file at the Basque Government Justice Department must contain a copy of the sentence passed by the corresponding judge from the juvenile court. It must also contain a copy of the psychosocial report compiled by the Technical Teams and the sanction completion report issued by the centers and services dependent on the Justice Department.

Materials and Procedure

The materials used for the study were as follows: in first place, the Youth Justice Service's database at the Basque Government Justice Department, which contains the criminal records of all youth offenders, i.e., all the penal sanctions arising from convictions. From each educational sanction, the start and completion dates were taken, along with the date the file was opened within the Justice Department system, and the date on which it was closed. In second place, the convictions passed by the Juvenile Courts in the Autonomous Region of the Basque Country, from which a series of variables were taken, such as the date of the sentence, the offense committed and the type and duration of the educational sanction established, etc. In third place, the psychosocial advisory reports issued for the judge by the Psychosocial Teams of the Basque Juvenile Courts. And finally, the completion reports of the penal sanctions, issued by the competent public entity (Basque Government Justice Department). These reports were used despite the fact that they lacked a clear, homogenous structure, mainly due to the characteristics of the sanctions themselves. In some, for example, such as in custodial sentences, the sanction completion report provides detailed information on the minor's educational process during both their time in custody and their subsequent probationary period. However in others, such as community service sentences, the report only states whether or not the minor served their sentence satisfactorily.

Another limitation which adversely affects the reliability of the data is that there are several different entities which collaborate with the Basque Government Justice Department and which are responsible for enforcing the penal sanctions imposed. This results in a certain degree of discrepancy regarding the criteria upon which the reports are based. We believe it is important to point out these difficulties in the data gathering process from the start, since they reflect the limitations of the study. They do not, however, invalidate the results, since we will only focus our analyses on those data whose reliability and validity are completely guaranteed.

Results

In the first study, 283 minors were included in the analysis, while in the second study this number rose to 553, and then remained at a similar level (542) in the third study. This increase in the number of youth offenders from the second study onwards itself indicates that the volume of offenses is on the rise. The evolution of this trend should be observed and analyzed over coming years, to see whether or not the figure of approximately 500 minors sentenced to educational sanctions every year stabilizes.

A similar evolution was observed regarding repeat offenses (reoffending) in all three samples. A minor is considered a repeat offender when they commit two or more offenses that are registered in the Basque Justice System within a period of (approximately) four years from the date on which the sanction under study (which we have termed the baseline case) terminated, regardless of the nature of said offenses or whether they were committed once the minor had turned 18. In the period from 2003 to 2007, the repeat offending rate was 54%, from 2006 to 2010 it was 58.8% and finally, from 2009 to 2013 it was 57% (Figure 1).

The rate of recidivism has also varied over recent years. Recidivism is defined as the number of convictions stemming from the perpetration of an offense by the minor from the day immediately following the date on which the sanction under study terminated. As mentioned earlier, we analyzed not only the Basque Government Department of Justice's database, but also the information provided by the Penal Institutes, since it is possible that minors may repeat offending after turning 18 years of age. The recidivism rate for the first study was 28.1% (2003-2007). This figure dropped to 21.7% in the second appraisal (2006-2010), and then dropped again in the last sample (2009-2013) to 19.6% (Figure 2).

Another statistic worth mentioning is the percentage of minors who had committed two or more offenses before what we termed the baseline case, from which the appraisal of penal sanctions is conducted. This figure, which for the purposes of this study will be termed the

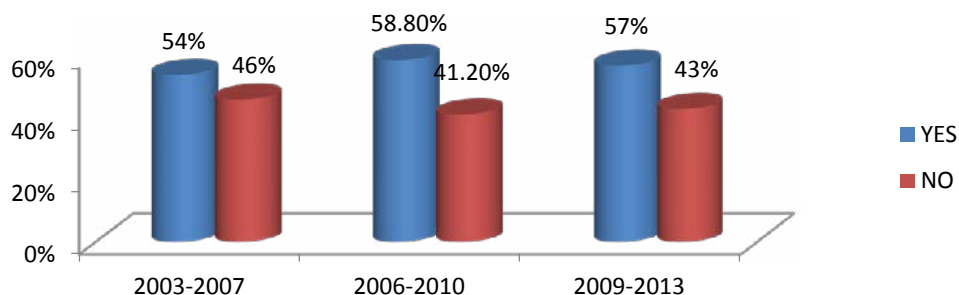


Figure 1: Evolution of reoffending in the Autonomous Region of the Basque Country (2003-2007/2006-2010/2009-2013).

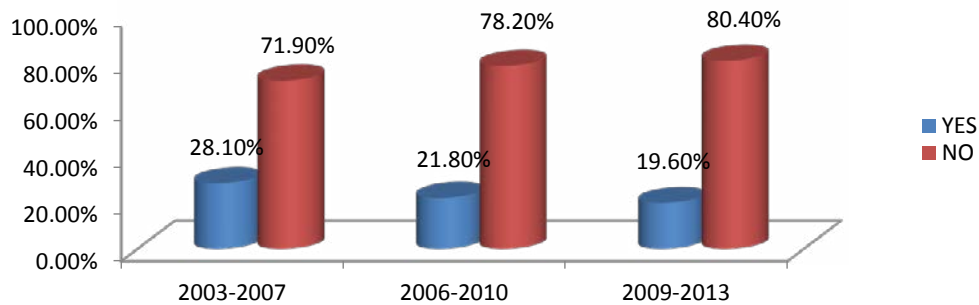


Figure 2: Evolution of recidivism in the Autonomous Region of the Basque Country (2003-2007/2006-2010/2009-2013).

pre-incidence rate, was observed to have evolved differently from the recidivism rate. Instead of decreasing during the second period of analysis (as recidivism did), pre-incidence increased slightly (rising from 32% in 2003-2007 to 38% in 2006-2010) and then dropped back to the initial rate of 32% in the third appraisal. This difference between the recidivism and pre-incidence rates is particularly significant since it attests to the effectiveness of the sanctions. In other words, the drop in recidivism becomes particularly significant in light of the increase in pre-incidence, since it is preferable to prevent minors from repeat offending if they have already committed offenses in the past. We should also acknowledge the relative nature of the success achieved with first-time offenders who do not repeat offend following the sanction imposed during the follow up period.

As regards the gender of the sample group, the majority of minors who completed a sanction in 2003 were boys (88%). In the two subsequent samples, this figure dropped to 82%, which reflects a trend that should be analyzed in future studies, since it suggests a gradual increase in the proportion of female juvenile delinquents.

As regards place of birth, 17.6% of the minors in the first study were foreign nationals. This figure increased to 22.4% in the second study, and then increased again to 25% in the third one. We can therefore affirm that, as is only logical, the majority of youth offenders are Spanish, although the percentage of foreign offenders is on the increase and indeed, this group is over-represented in Juvenile Justice relative to the percentage of foreign minors in the general population.

Differences were also observed in the incidence rate of each type of offense, mainly between the second and third studies. If we take the three most commonly-committed offenses, we see that the incidence rate of assault causing bodily harm increased (from 16.8% to 18.5%), while that of both robbery with use of violence and/or intimidation and theft remained stable (dropping from 16.6% to 16.4%, and rising from 13.4% to 13.8%, respectively).

Discussion and Conclusions

First of all, the number of minors completing an educational sentence in 2003 was lower than the figures for both 2006 and 2009. This may be interpreted as a failure on the part of those administrative entities responsible for preventing juvenile delinquency. However, it could also be seen as evidence that the mechanisms for identifying, monitoring, educating and designing interventions for young offenders have improved. In any case, the evolution observed in the period analyzed in the study is worth exploring from the perspective of different parameters, namely age, recidivism and gender, in an attempt to gain a more accurate understanding of the trends in juvenile delinquency in a constantly changing world.

Age

Numerous and diverse studies and reports written in different countries show that adolescence is the most common period of life in which people break the law [9]. As classic researchers in the field of antisocial behavior and juvenile delinquency, such as Farrington and Moffitt [10,11], point out, the early years of adolescence constitute a critical period for transgression [12]. Thus, it has been observed that the highest rates of transgression occur in this age group (around 15 years of age), and then decrease gradually as subjects grow older [13], with adolescence being the period marked by the highest prevalence of antisocial behavior. Nevertheless, it is important to point out that the most common type of transgression observed during this period are only minor offenses [14]. Looking at the data from our three studies, we observed that the average age of youth offenders remains stable at 16, which is consistent with the reference material previously mentioned.

Delinquency rate and reoffending

In a study conducted in Canada in 2006, the authors found that over 95% of male adolescents and 65% of female ones confessed to having engaged in some kind of antisocial behavior over the course of the last twelve months [15]. This can be seen most clearly in political and judicial statistics. In Canada, the percentage of adolescents arrested by the police oscillates between 28% and 79%, depending on the source consulted [16]. In Europe, according to data provided in the International Centre for Prison Studies (2005-2006), England and Wales have a higher number of youths among their prison population than any other European country except Greece, which heads the list with 6.9%, and Germany, in which 4% of all those being held in preventative detention are under the age of 18.

At the opposite end, in the year 2000, there were no more than 20 under-18s in prison in Norway, Denmark, Finland and Sweden, and in 2006 these figures remained low, with minors accounting for 0.6% of all prisoners in Denmark, 0.2% in Norway and Sweden and 0.1% in Finland [17].

In Spain, according to data from the National Statistics Institute, 17,572 criminal offenses were committed by minors (aged 14 to 18) in 2009, as opposed to the 220,739 criminal offenses committed by adults. Once again, it is very difficult to make comparisons. However, according to the same sources, there were 2,339,181 youths aged between 15 and 19 living in Spain in 2009, meaning that the percentage of the total youth population who had committed some kind of criminal offense was 0.75%. In the Autonomous Region of the Basque Country, the youth population aged between 15 and 19 totaled 87,305 in 2009, and 751 minors were sentenced. This means

that 0.86% of youths in our region youths in our region convicted of some kind of offence, a percentage that is slightly higher than the figure for Spain in general. Despite the data, it is important to bear in mind that different criminological studies have demonstrated that only one third of all criminal behavior is actually detected, with the majority of transgressions going unnoticed by the law-enforcement agencies of different countries [18].

Recidivism

In this research, we assume the rate of recidivism as an indicator of success of the penal treatment. Obviously, there are many factors which must be considered in determining the success of the program, including the type of programs used, the importance given to each program, the people involved in the programs, the effectiveness of each program in rehabilitating the juvenile delinquent, and ultimately by researching the recidivism rate of the juvenile delinquents who are involved in the program [19].

From this point of view, another of the results obtained in our study is related to recidivism, a concept which poses substantial problems when attempting to draw comparisons with other Spanish or international studies. This is because the methodology used differs from case to case (follow-up time is different, the sample groups are different and in some cases take into account minors who reoffend after mediation processes, instead of only after penal processes). Consequently, the data we have at our disposal cannot be used to draw valid comparisons from a methodological perspective. Therefore, the only comparison that can be made is between our own studies, inasmuch as the same procedure was used in all cases. Despite this, the data provided by other research projects has been taken into consideration as it provides an approximate idea of the situation in other neighboring regions. Thus, in 2009, Bravo, Sierra and Del Valle from the University of Oviedo found a 70% effectiveness rate for interventions, and in the year 2000, Rechea and Fernández, from the University of Castilla la Mancha, found a recidivism rate of 15%. The study which is most similar in method to the one conducted by our team is that carried out by Capdevilla, Ferrer and Luque in Catalonia in 2005. These authors found a recidivism rate of 23%. The principal challenge posed in relation to reducing recidivism is how to intervene in those groups for which a series of risk factors have been identified. These risk factors include dysfunctional families, prior convictions, drug abuse, foster care and the normalization of criminal activity in the family context [20]. It is important to distinguish this group from the rest because, as Moffitt [11] states in her dual taxonomy, and indeed as we ourselves have seen in our study, the majority of first-time youth offenders never repeat offend. In more specific terms, in the last of our three studies the result could not have been clearer: of the 233 minors who were first-time offenders, none were observed to have reoffended. This is a 100% non-recidivism rate.

A limitation in the method must be mentioned. When we speak of effectiveness of the measure, we are assuming that the child has not reoffended. However, while any one minor who does not reappear in the justice systems may mean that the sanctions taken have been effective; this may also be due to three other reasons:

1. The minor may have committed crimes but managed to avoid justice. Or, to put it more colloquially, they did not catch him or her.
2. The minor may have committed a crime outside the Basque Country, which is where we are evaluating this justice system.

The databases are not connected and, if crimes are committed outside the Basque Country, we never hear about them.

3. The minor may have committed a crime after coming of age and so the crime will not enter the system as a juvenile crime, it will be an adult crime. We can only see that a person who committed a crime as a minor has committed a further crime as an adult during the calculation period for the rate of recidivism by comparing our database with that of the Ministry of the Interior.

Gender

As regards gender differences in criminal behavior, recent research has found differences between boys and girls as regards pro-social behavior, with adolescent girls being more predisposed to empathic behavior and less likely to engage in aggressive or illegal conduct than adolescent boys [21-23]. Despite this empirical evidence, very little specific information is available on female delinquency. The few studies carried out with a gender perspective are mainly located in Latin America, where clear gender differences are observed in the perpetration of criminal acts. In relation to female delinquency among minors, almost no research has been conducted in this field in our country, and two of the possible hypotheses that could explain the situation provide contradictory results: namely:

- a. That girls and boys are differently exposed to the same risk/protection factors and
- b. That the effect of these factors differs between gender groups [6].

This gap in our knowledge stems from the fact that, in some cases, female delinquency has been explained from the perspective of existing theories regarding delinquency in general. The design of research projects continues to be based on the traditional idea that female delinquency conforms to the same models as male criminal behavior, even though we know that differences exist between the sexes as regards, among other things, the management of conflict and emotions [24,25]. In other cases, attempts have been made to approach the problem from the perspective of the natural, biological characteristics attributed to the female sex. In such cases, the focus has mainly been on identifying the specific characteristics of female delinquents by studying chromosomal abnormalities, hormonal disorders and premenstrual syndrome, etc. It seems that over recent years female juvenile delinquency has increased considerably [26,27], as the results of our study do indeed show. In turn, this has prompted many countries to pay more attention to young female offenders, a change in attitude which has given rise to a growing number of projects focused specifically on the needs of female juvenile delinquents [28,29].

These studies have found that although many of the factors which place girls in situations of risk are the same as those operating in the case of boys (poverty, breakup of the family unit, violence, etc.), there are some important differences, including the way in which girls and boys are brought up by their families. For example, more control is exerted over many aspects of girls' lives and there are substantial differences in how they spend their free time and the type of risks their leisure activities involve. Boys tend to spend more time than girls in groups with no adult supervision, engaging in more high-risk activities. Differences were also noted in girls' and boys' level of maturity, which become more pronounced as they grow older. This in turn influences their performance at school, with boys being more likely to drop out of school and achieve more irregular academic results than girls. Consequently, adolescent girls and boys tend to commit different types

of offenses, with fewer fights and less criminal damage being recorded for girls [30]. Other studies have found that girls start and finish their delinquent period earlier than boys [31]. As girls grow older, they become not only less predisposed than boys to using aggression, but also tend to use it differently [32]. A longitudinal study conducted in Canada found that at ages 10 and 11, girls were much less aggressive than boys (5.7% of girls were classified as aggressive, as opposed to 10.8% of boys) and their violent behavior tended to be verbal in nature, or made use of exclusion strategies rather than physical aggression [32].

The future

As mentioned in the Introduction, one only has to read the newspapers or watch the news to see that society's image of juvenile delinquency differs substantially from the real situation we have attempted to summarize. This image basically consists of the idea that juvenile delinquency is rampant and is undergoing a constant, unstoppable increase, mainly due to the increasing economic crisis and the breakdown in moral values. Public opinion is thus formed and, more seriously and most regrettably, ends up having a major influence on legislators' response to the phenomenon [33]. Nevertheless, the conclusion that can be drawn from the various studies carried out in this field is that the majority of youth offenders stop breaking the law upon reaching adulthood. It is also important to bear in mind that the offenses committed by youths are generally non serious and tend to decrease, or even disappear altogether in the majority of cases as the individuals come of age [34,35]. The same conclusion can be drawn from the empirical evidence presented earlier in this paper. The majority of offenses committed by minors are offenses against property, including vandalism and theft. Europe has similar percentages, and our three samples found much the same results, with theft in all its different guises being the most common offense committed by minors. This is the profile of the type of offense committed by minors. It is similar in nature to that of adult offenses, and is expected to remain unchanged over the next few years at least. Nevertheless, in relation to prevention strategies, it is worth mentioning the importance of designing specific studies to analyze the risk factors for offenses committed by girls. Although the rate of female juvenile delinquency is still low, it is rising and if the current rate of increase continues, in a few years' time it may constitute a pressing concern for society. Another finding not mentioned in the results section due to its low statistical significance, but which is concerning nonetheless, is the observed increase in child-to-parent violence. During the first appraisal, no cases of this particular offense were detected, or at least no offense was described in these terms during sentencing. However, cases were found in the second study, in which child-to-parent violence accounted for 4.7% of all offenses. This rate rose by one percent in the third study. If we also bear in mind that some offenses classed as bodily harm also occurred in the domestic sphere, as well as the strong probability that many such offenses go undetected -due to the trauma involved in reporting a son or daughter to the police- the real percentage may in fact be even higher. The conclusion we can draw from this situation is therefore the same as for female delinquency.

To conclude this last section, which aims to identify future problems, we would like to echo the assessment made in the latest reports issued by the juvenile public prosecutor's office regarding the increase in cases of sexual harassment of minors over the Internet [36,37]. 21st century criminology will undergo a substantial change in this respect, since classical theoretical models are based on the idea of a crime scene as a physical space. Nevertheless, although the motive for these crimes remains basically unaltered, society's immersion in the

digital world will significantly change the profile of both victims and perpetrators. And juvenile delinquency will not be immune to these changes.

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