



Comparative analysis of restorative justice in the juvenile justice systems of Ecuador and Spain

Análisis comparativo sobre justicia restaurativa del sistema penal juvenil de Ecuador y España

Patricio Alfredo Vallejo-Valdivieso
patricio.vallejo@utm.edu.ec

Technical University of Manabí, Portoviejo, Manabí, Ecuador
<https://orcid.org/0000-0003-3248-7864>

Patricio Yosué Vallejo-Pilligua
patricio_2871@yahoo.es

Pontificia Universidad Católica del Ecuador, Portoviejo, Manabí, Ecuador
<https://orcid.org/0000-0001-9039-7061>

Graciela Hernestina Zambrano-Pincay
graciela.zambrano@utm.edu.ec

Technical University of Manabí, Portoviejo, Manabí, Ecuador
<https://orcid.org/0000-0003-2396-3451>

Natalia Perez-Rivas
natalia.perez.rivas@usc.es

Universidad Santiago de Compostela, Santiago de Compostela, Galicia, Spain
<https://orcid.org/0000-0003-1358-2276>

ABSTRACT

The objective of this research was to carry out a comparative analysis of the differences between the restorative justice of the juvenile penal system in Ecuador and Spain. Using the comparative law method as a methodological strategy. The research examines the structural, procedural and conceptual differences that characterize both legal systems in terms of restorative juvenile criminal justice. The results show significant disparities in terms of normative implementation, enforcement mechanisms and theoretical approaches that underpin each system. The analysis reveals that while Spain has a consolidated legal framework through Organic Law 5/2000, Ecuador presents an emerging normative development with characteristics of Andean constitutionalism. The divergences identified include aspects related to mediation procedures, victim participation, comprehensive reparation mechanisms and criteria for evaluating restorative effectiveness.

Descriptors: justice; right to justice; comparative law (Source: UNESCO Thesaurus).

RESUMEN

La investigación se planteó como objetivo efectuar un análisis comparativo sobre las diferencias entre la justicia restaurativa del sistema penal juvenil de Ecuador y España. Empleando el método de derecho comparado como estrategia metodológica. La investigación examina las diferencias estructurales, procedimentales y conceptuales que caracterizan ambos ordenamientos jurídicos en materia de justicia penal juvenil restaurativa. Los resultados evidencian disparidades significativas en cuanto a la implementación normativa, los mecanismos de aplicación y los enfoques teóricos que sustentan cada sistema. El análisis revela que mientras España cuenta con un marco jurídico consolidado través de la Ley Orgánica 5/2000, Ecuador presenta un desarrollo normativo emergente con características propias del constitucionalismo andino. Las divergencias identificadas comprenden aspectos relacionados con los procedimientos de mediación, la participación de las víctimas, los mecanismos de reparación integral y los criterios de evaluación de la eficacia restaurativa.

Descriptores: justicia; derecho a la justicia; derecho comparado. (Fuente: Tesauro UNESCO).

Received: 02/23/2025. Revised: 03/13/2025. Approved: 04/16/2025. Published: 01/05/2025.

Research articles section



INTRODUCTION

The restorative justice paradigm has undergone a substantive transformation in the field of contemporary juvenile criminal law, configuring itself as a viable alternative to the traditional punitive model. This evolution responds to the need to develop specialized approaches that recognize the particularities of the cognitive, emotional and social development of adolescents in conflict with criminal law. In this context, the comparative analysis between the legal systems of Ecuador and Spain allows identifying the particularities that characterize the implementation of restorative mechanisms in each national system.

Juvenile restorative justice emerges as a transformative paradigm that privileges the reparation of the harm caused, the active participation of the parties involved and the restoration of social relations affected by the crime. This approach contrasts significantly with the traditional punitive model, which focuses on punishment as a response to criminal behavior. The implementation of restorative mechanisms in the juvenile setting presents specific particularities that derive from the special condition of minors in conflict with criminal law, requiring procedural and conceptual adaptations that consider their evolutionary development (González, 2024).

Considering that juvenile criminal justice requires specialized approaches that privilege rehabilitation over punishment, the study of the differences between the two systems acquires significant academic and practical relevance. According to Calle-Tapia (2023), current trends in restorative juvenile justice demonstrate a positive impact on society when mechanisms for early intervention and reparation of harm are properly implemented. This perspective emphasizes the importance of developing theoretical and practical frameworks that facilitate the understanding and effective application of restorative justice in juvenile contexts.

The Spanish experience represents a significant benchmark in juvenile criminal justice, given that Organic Law 5/2000 established a comprehensive normative



framework that has been the subject of extensive doctrinal analysis and systematic empirical evaluation. Spanish legislation has evolved towards the incorporation of restorative principles that complement the traditional educational approach, generating a hybrid model that combines retributive and restorative elements. Likewise, Díaz-Maroto & Villarejo (2023) point out that the criminal responsibility of minors in Spain is based on principles that prioritize the best interests of the minor and the educational purpose of judicial measures, aspects that facilitate the integration of restorative approaches.

In contrast, the Ecuadorian system presents particular characteristics derived from the constitutionalism that governs the national legal system. This constitutionalism incorporates elements of the Andean worldview and principles of social justice that influence the conceptualization and application of restorative juvenile justice. As Villacreses-Briones (2023) indicates, criminal interpretation in Ecuadorian constitutionalism incorporates differentiating elements that influence the application of restorative justice, generating a particular interpretative framework that privileges comprehensive reparation and community participation.

The justification for this comparative study lies in the need to understand the different theoretical and practical approaches that characterize the implementation of restorative justice in diverse legal and cultural contexts. This understanding facilitates the identification of best practices, the detection of structural limitations and the development of proposals for improvement that can benefit both systems. Likewise, the comparative analysis contributes to the development of the theory of juvenile restorative justice, providing conceptual elements for the improvement of juvenile criminal justice systems in the Latin American region.

Consequently, this study aims to answer the following research question: What are the structural, procedural and conceptual differences between the restorative justice of the juvenile penal system in Ecuador and Spain?

The objective of this study is to carry out a comparative analysis of the differences between the restorative justice of the juvenile penal system in Ecuador and Spain.



Conceptual framework

Restorative justice constitutes an alternative model of justice administration that privileges the reparation of the damage caused by the crime, the active participation of the parties involved and the restoration of the affected social relations. This paradigm represents a fundamental transformation in the understanding of crime and the state response, moving away from the traditional punitive approach to privilege the restoration of social relations and the comprehensive repair of the damage caused. In this sense, Márquez-Cárdenas (2009) states that the social doctrine of restorative justice is based on principles of solidarity, community participation and comprehensive reparation of harm, aspects that redefine the role of the criminal justice system.

The conceptualization of restorative justice incorporates philosophical, sociological and legal elements that converge in the construction of an alternative model of criminal conflict resolution. This model is characterized by privileging dialogue between the parties involved, the understanding of the impact of the crime on the victim and the community, and the implementation of reparation mechanisms that transcend the strictly patrimonial dimension. Restorative justice is based on the premise that crime constitutes a violation of interpersonal and social relationships, requiring responses that facilitate the healing of these relationships (Rimo, 2024).

Additionally, the application of restorative justice in the juvenile setting presents specific particularities that derive from the special condition of minors in conflict with criminal law. These particularities include the consideration of the cognitive and emotional development of adolescents, the importance of family participation in restorative processes, and the need to implement measures that facilitate the integral formation of the minor. Therefore, González (2024) argues that adequate justice for children and adolescents in conflict with criminal law should be based on principles and guarantees established in international standards, incorporating specific elements that recognize their condition as developing subjects.



The implementation of juvenile restorative justice requires the adaptation of traditional criminal justice procedures to incorporate elements that favor the active participation of minors, the understanding of the impact of their actions and the development of social and emotional competencies. This adaptation implies the incorporation of pedagogical methodologies, the participation of multidisciplinary teams and the implementation of measures that privilege training over punishment, therefore, Rojas et al. (2020) emphasize that restorative juvenile justice in the juvenile justice system must consider the specific characteristics of adolescents in order to develop effective interventions.

Spanish juvenile criminal justice system

The Spanish legal system has developed a specialized regulatory framework for juvenile criminal justice through Organic Law 5/2000 of January 12, 2000, regulating the criminal responsibility of minors. This regulation represents a significant milestone in the evolution of Spanish juvenile criminal law, establishing a differentiated system that recognizes the particularities of minors in conflict with the criminal law. Consequently, Lázaro-Pérez (2001) indicates that this regulation establishes a differentiated system of criminal responsibility that incorporates measures of an educational and social reinsertion nature, moving away from the traditional punitive model applied to adults.

Organic Law 5/2000 has undergone multiple reforms that have strengthened the incorporation of restorative principles in the Spanish juvenile criminal justice system. These reforms have responded to the need to adapt the regulatory framework to social demands and to theoretical and empirical advances in juvenile justice. The regulatory evolution has favored the implementation of alternative measures to the deprivation of liberty, the strengthening of rehabilitation programs and the incorporation of mechanisms for the reparation of harm. In this sense, Curbelo-Hernández (2021) analyzes two decades since the entry into force of Organic Law 5/2000, highlighting the importance of forensic social work from a rights perspective.



Similarly, the Spanish system has evolved towards the incorporation of restorative mechanisms in the processing of juvenile cases, developing specialized programs that show significant preventive effects. Thus, Corrales (2022) demonstrates that the restorative approach in juvenile criminal justice in Spain has shown significant preventive effects in the reduction of criminal recidivism, empirically validating the effectiveness of restorative interventions in the Spanish juvenile context. This empirical evidence has strengthened the legitimacy of restorative approaches and has facilitated their expansion within the juvenile criminal justice system.

The Spanish experience in restorative justice has incorporated specialized instruments for the assessment and management of the risk of recidivism, developing technical tools that facilitate informed judicial decision-making. Therefore, Horcajo-Gil et al. (2019) argue that the assessment of the risk of criminal recidivism in juvenile offenders requires specialized technical instruments that allow for differentiated intervention, emphasizing the importance of multidisciplinary assessment in determining the most appropriate measures for each case.

The Spanish system has also developed specialized mechanisms for the treatment of specific problems in the field of juvenile criminal justice, in this order, Arroyo (2023) analyzes child-parental violence in juvenile criminal proceedings, identifying the need to develop specialized responses that consider the complexity of these situations. Likewise, the system has incorporated gender perspectives in the treatment of juvenile violence, as evidenced by Seara (2024) in her analysis of Spanish criminal justice in the face of gender-based violence by minors.

Ecuadorian juvenile criminal justice system

The Ecuadorian juvenile criminal justice system is characterized by the incorporation of constitutional guarantee principles that significantly influence the application of restorative mechanisms. This system is based on the 2008 Constitution, which establishes a framework of fundamental rights and procedural guarantees that influence the interpretation and application of juvenile criminal law. In this context, Cabrera-Cabrera & Maldonado-Ordoñez (2023) analyze the juvenile penal system



in Ecuadorian legislation and identify the emergence of a new paradigm of restorative justice that incorporates elements of Latin American transformative constitutionalism.

Ecuadorian constitutionalism presents particular characteristics that derive from the influence of the Andean cosmovision, the principles of social justice and the conception of nature as a subject of rights. These elements generate a specific interpretative framework that influences the conceptualization of juvenile restorative justice. Consequently, Alvaracín-Jarrín (2023) presents a critical perspective on punitive irrationality in Ecuador from the perspective of criminal guaranties, evidencing the need for alternative approaches in juvenile justice that transcend the traditional punitive paradigm.

Restorative justice in Ecuador has been configured as an alternative means for the treatment of juvenile delinquency, incorporating elements of integral reparation that transcend the strictly legal dimension. This comprehensive approach considers social, cultural, economic and symbolic aspects in the conceptualization of harm and reparation. Thus, Suárez-Jácome & Moreno-Martínez (2024) argue that restorative justice represents an effective tool to address the problem of juvenile delinquency in the Ecuadorian context, emphasizing the importance of developing culturally relevant approaches.

The Ecuadorian system presents specific challenges related to the effective implementation of juvenile restorative justice, Lorona-González & Gende-Ruperti (2025) identify the need to redefine minority of age in the Ecuadorian adolescent criminal justice system, evidencing an ongoing process of normative transformation that seeks to adapt the legal framework to the social and cultural realities of the country, this transformation includes the incorporation of elements of indigenous justice and alternative conflict resolution mechanisms.

The sociological perspective of Ecuadorian juvenile criminal law provides critical elements for the understanding of the limitations and potentialities of the system, in this order, Monar-Machoa (2024) analyzes critical perspectives on rehabilitation



and restorative justice from the sociology of juvenile criminal law, identifying tensions between normative discourses and institutional practices. This critical perspective evidences the need to develop more holistic approaches that consider the social and structural conditions that influence juvenile delinquency.

Comparative Perspectives on Juvenile Criminal Justice

The comparative analysis of juvenile criminal justice systems makes it possible to identify differentiated models of state intervention in juvenile delinquency, facilitating the understanding of the different theoretical and practical approaches that characterize each legal system. In this regard, Gonzáles-Laurino (2016) presents the juvenile criminal justice models under debate at the beginning of the 21st century, evidencing the diversity of approaches adopted by different legal systems and the influence of cultural, political and social factors in their configuration.

The comparative perspective facilitates the understanding of regional particularities in the implementation of restorative justice, making it possible to identify common elements and specific differences that characterize each system. Consequently, Bernal-Sánchez & Lescano-Galeas (2021) develop a comparative analysis between the practices of Ecuador and Mexico in terms of the resignification of criminal justice, evidencing the importance of considering cultural and social contexts in the implementation of penal reforms.

The comparative analysis also makes it possible to identify global trends in the evolution of juvenile criminal justice and to evaluate the effectiveness of different approaches in reducing recidivism and promoting social reinsertion. Agudelo et al. (2022) analyze juvenile criminal justice in human rights courts from a European perspective, providing elements for understanding international standards in juvenile justice.



METHOD

From a methodological context, the comparative law method was used as a methodological strategy for the analysis of the differences between the restorative justice systems applied in the juvenile criminal jurisdiction of Ecuador and Spain. The comparative method in law allowed the systematic identification of similarities and differences between different legal systems, facilitating the understanding of the normative, procedural and conceptual particularities of each system. This methodological approach is based on the premise that the comparison between different legal systems allows the identification of common and particular elements that enrich the understanding of the legal phenomena studied.

In this order, the implementation of the comparative method requires the definition of comparison criteria that allow the systematic analysis of the differences identified. In this study, the criteria for comparison are structured in three fundamental dimensions: (1) normative and institutional framework, (2) application procedures and mechanisms, and (3) theoretical and philosophical principles underpinning each system.

The selection of sources was made by reviewing 40 specialized bibliographic references that include: legal norms, academic doctrine, jurisprudence and empirical studies on restorative justice in both countries. The documentary corpus includes refereed academic publications, specialized books, doctoral theses and institutional reports published between 2001 and 2025. The temporal selection responds to the need to incorporate both the historical background of the development of juvenile restorative justice and the most recent trends in both systems.

Therefore, the source selection criteria prioritized academic quality, thematic relevance and representativeness of the different doctrinal perspectives existing in each country. Primary sources (legal regulations, jurisprudence), secondary sources (academic doctrine, empirical studies) and tertiary sources (systematic reviews, comparative analyses) were included; therefore, the diversity of sources guarantees the comprehensiveness of the analysis and the validity of the conclusions derived.



In this sense, the comparative analysis is structured in three fundamental dimensions that allow a comprehensive understanding of the differences between the two systems:

1. The first dimension, normative and institutional framework, examines the differences in the legal structure, constitutional principles, responsible institutions and implementation mechanisms.
2. The second dimension, procedures and implementation mechanisms, analyzes differences in mediation processes, eligibility criteria, victim participation and follow-up mechanisms.
3. The third dimension, theoretical and philosophical principles, examines the conceptual differences underpinning each system and their influence on judicial practice.

On the other hand, the information was processed through qualitative content analysis, identifying emerging analytical categories that allow the systematization of the differences identified. Consequently; the content analysis was structured in three phases:

1. Descriptive analysis of each system,
2. Identification of similarities and differences,
3. Interpretation of the differences identified. The validity of the analysis was ensured through the triangulation of sources and the contrasting of diverse doctrinal perspectives.

Therefore, the triangulation of sources was implemented through the confrontation of information from different types of sources (normative, doctrinal, empirical) and the verification of the consistency of information between different sources. The contrasting of doctrinal perspectives was carried out by incorporating authors with different theoretical approaches, guaranteeing the representativeness of the different currents of thought existing in each country.



ANALYSIS OF THE RESULTS

The results of the research are described in a comparative legal context:

Table 1. *Classification of the 40 bibliographic references by type of source.*

Legal regulations (4 references)			
Reference	Country Type		Year
Organic Law 5/2000, of January 12, 2000, regulating the criminal responsibility of minors	Spain	Organic Law	2000
Childhood and Adolescence Code. Law 100. Official Register 737 of 03-Jan.-2003. Last modification: 07-Jul.-2014.	Ecuador	Specialized Code	2003
Constitution of the Republic of Ecuador	Ecuador	Constitutional Norm	2008
Integral Organic Penal Code, COIP. Official Gazette Supplement 180 of 10-Feb.-2014. Last amendment: 17-Feb.-2021.	Ecuador	Organic Code	2014
Academic doctrine - refereed publications (24 references)			
Author(s)	Country/Focus	Year	Type of Publication
Agudelo et al.	Europe/International	2022	Refereed academic article
Alvaracín-Jarrín	Ecuador	2023	Refereed academic article
Arroyo	Spain	2023	Refereed academic article
Bernal-Sánchez and Lescano-Galeas	Ecuador-Mexico	2021	Refereed academic article
Blanca	Spain	2022	Refereed academic article
Cabrera-Cabrera and Maldonado-Ordoñez	Ecuador	2023	Refereed academic article
Calle-Tapia	General/Theoretical	2023	Refereed academic article
Centelles et al.	Spain	2021	Refereed academic article
Corrales	Spain	2022	Refereed academic article
Cortés-Torres	International	2022	Refereed academic article
Curbelo-Hernandez	Spain	2021	Refereed academic article
Díaz-Maroto and Villarejo	Spain	2023	Refereed academic article
Fernández	Spain	2022	Refereed academic article
González	General/Theoretical	2024	Refereed academic article
González-Laurino	International	2016	Refereed academic article
Horcajo-Gil et al.	Spain	2019	Refereed academic article
Lanzas-Iniesta	Spain	2023	Refereed academic article
Lorona-González and Gende-Ruperti	Ecuador	2025	Refereed academic article
Luzón-Peña	Spain	2022	Refereed academic article
Márquez-Cárdenas	General/Theoretical	2009	Refereed academic article
Mendoza-Tello et al.	Ecuador	2024	Refereed academic article
Monar-Machoa	Ecuador	2024	Refereed academic article



Author(s)	Country/Focus	Year	Type of Publication
Perdigones y del Prato	Spain	2024	Refereed academic article
Rimo	General/Theoretical	2024	Refereed academic article

Specialized books (7 references)

Author(s)	Country/Focus	Year	Type of work
Lázaro-Pérez	Spain	2001	Specialized book
Rojas et al.	General/Theoretical	2020	Specialized book
Salazar	Ecuador	2020	Specialized book
Seara	Spain	2024	Specialized book
Soto	Spain	2021	Specialized book
Suárez-Jácome and Moreno-Martínez	Ecuador	2024	Specialized book
Vidal-Herrero-Vior	Spain	2015	Specialized book

Doctoral theses and institutional reports (5 references)

Author(s)	Country/Focus	Year	Type
Vallejo-Valdivieso et al.	Ecuador	2022	Doctoral thesis/Institutional report
Villacreses-Briones	Ecuador	2023	Doctoral thesis
Villamar et al.	Latin America	2024	Institutional Report
Vidal-Herrero-Vior	Spain	2015	Doctoral thesis
Cortés-Torres	International	2022	Institutional Report

Source: Own elaboration.

The analysis of the 40 bibliographic references presented in Table 1 shows a heterogeneous documentary architecture that supports the research from various academic and legal perspectives. In this sense, academic doctrine forms the central pillar of the theoretical framework with 24 references (60% of the total), composed primarily of scientific articles with academic arbitration published between 2019 and 2025, which proves the contemporaneity and relevance of the doctrinal debate on the subject under investigation.

The significant presence of Spanish and Ecuadorian studies stands out, projecting an Ibero-American comparative approach that enhances the legal-criminal analysis from a comparative law perspective. The normative order, with 4 strategically chosen references, ranges from the Ecuadorian Magna Carta to specialized normative bodies and organic laws of both legal systems, providing the essential legal support for the normative-dogmatic analysis.



The 7 specialized books contribute with theoretical and doctrinal depth, while the 5 doctoral theses and institutional reports incorporate empirical research and institutional analysis that complement the scientific substrate of the study. This proportionate distribution between primary normative sources, contemporary academic doctrine and specialized legal literature ensures a comprehensive and methodologically rigorous approach to the legal institution examined, in line with the parameters of Ecuadorian legal research.

Table 2. *Geographical and temporal distribution.*

By Country/Region (40 references)		
Category	Quantity	Percentage
Spain	15	37,5%
Ecuador	14	35,0%
General/Theoretical/International	11	27,5%
TOTAL	40	100%

By Time Period		
Period	Quantity	References Included
2001-2010	4	Ley Orgánica 5/2000, Lázaro-Pérez (2001), Código Niñez Ecuador (2003), Constitución Ecuador (2008), Márquez-Cárdenas (2009)
2011-2020	9	COIP Ecuador (2014), Gonzáles-Laurino (2016), Vidal-Herrero-Vior (2015), Horcajo-Gil et al. (2019), Rojas et al. (2020), Salazar (2020)
2021-2025	27	Remaining references (67.5% of total).

Source: Own elaboration.

Examination of the geographical and temporal distribution of the 40 bibliographic references presented in Table 2 shows a balanced and strategic configuration that strengthens the scientific validity of the study. From the geographical perspective, an almost symmetrical distribution is observed between Spanish (15 references, 37.5%) and Ecuadorian (14 references, 35.0%) sources, which evidences a solid comparative approach between both Ibero-American legal systems. The 11 references of a general, theoretical and international nature (27.5%) provide a universal dimension that enriches the analysis with broader doctrinal perspectives and global conceptual frameworks.



As for the temporal distribution, there is a marked concentration in the contemporary period, with 27 references (67.5%) corresponding to the five-year period 2021-2025, which proves the timeliness and validity of the research. The foundational period 2001-2010 incorporates 4 strategic references that include fundamental constitutional and legal norms, establishing the legal foundations of the analysis. The 9 references of the intermediate period 2011-2020 consolidate the doctrinal and normative development of the subject. This temporal architecture demonstrates that the research privileges the most recent scientific contributions, maintaining the support in the consolidated normative bases, which guarantees an updated treatment of the legal problem addressed in accordance with the methodological standards of contemporary legal research.

Table 3. *Quantitative analysis by categories.*

Distribution by type of source		
Type of source	Quantity	Percentage
Academic Doctrine (Refereed articles)	24	60,0%
Specialized Books	7	17,5%
Doctoral Theses and Reports	5	12,5%
Legal Regulations	4	10,0%
TOTAL	40	100%

Distribution by type of source					
National Focus	Articles	Books	Thesis/Reports	Regulations	Total
Spain	12	4	2	1	19
Ecuador	8	2	3	3	16
General/International	4	1	0	0	5

Source: Own elaboration.

The quantitative analysis by categories represented in Table 3 shows a hierarchical bibliographic structure that privileges contemporary scientific production and academic rigor. The academic doctrine, represented by 24 refereed articles (60%), constitutes the predominant nucleus of the critical apparatus, reflecting the prioritization of sources with scientific validation and thematic actuality. Specialized books, with 7 references (17.5%), provide the necessary doctrinal depth, while doctoral theses and institutional reports, with 5 references (12.5%), incorporate



original empirical research that enrich the scientific substrate. Legal regulations, although quantitatively smaller with 4 references (10%), maintain a fundamental strategic presence by providing the positive normative framework indispensable for dogmatic analysis.

The breakdown by national approach reveals a balanced distribution that strengthens the comparative perspective of the study. Spain concentrates 19 total references, standing out for its robust production in refereed articles (12) and specialized books (4), which reflects the maturity of its academic legal tradition. Ecuador contributes 16 references with a more homogeneous distribution among categories, showing a comprehensive scientific development ranging from normative production (3) to specialized academic research. The 5 general and international references provide universal theoretical frameworks that transcend national particularities. This bibliographic configuration guarantees a comprehensive approach that articulates national normative specificity with international scientific standards, fulfilling the methodological requirements of comparative legal research.

Differences in the normative and institutional framework

The comparative analysis evidences substantive differences in the normative structure that regulates juvenile restorative justice in both countries, reflecting different legal traditions and conceptual approaches. First, Spain has a consolidated legal framework through Organic Law 5/2000, which according to Vidal-Herrero-Vior (2015) requires an evolution towards a "social model of responsibility" of the juvenile offender that more effectively incorporates restorative principles. This regulation has undergone multiple reforms that have strengthened the incorporation of restorative principles, generating a hybrid system that combines retributive and restorative elements.

Organic Law 5/2000 establishes a specific procedural framework that regulates the application of restorative measures in the juvenile field, defining eligibility criteria, implementation procedures and evaluation mechanisms. This regulatory structure has facilitated the development of specialized programs and the training of



professionals specialized in juvenile restorative justice. Thus, Luzón-Peña (2022) analyzes the right to correction of minors in the context of juvenile criminal responsibility, showing the complexity of the Spanish normative regulation.

In contrast, Ecuador presents an emerging normative development characterized by the influence of constitutionalism and the incorporation of principles of integral reparation. In this sense, Lorona-González & Gende-Ruperti (2025) identify the need to redefine the age of minority in the Ecuadorian adolescent criminal justice system, which is evidence of an ongoing process of normative transformation that seeks to adapt the legal framework to the social and cultural realities of the country.

Ecuadorian constitutionalism incorporates elements of the Andean worldview that influence the conceptualization of juvenile restorative justice. These elements include the conception of justice as community balance, the importance of symbolic and ritual reparation, and community participation in conflict resolution processes. Thus, Villacreses-Briones (2023) analyzes penal interpretation and Ecuadorian constitutionalism, showing the influence of these elements in the application of criminal justice.

Additionally, institutional differences are manifested in the implementation mechanisms of restorative justice and in the institutions responsible for its application. The Spanish system has developed specialized institutions and professionals trained specifically in juvenile restorative justice, while the Ecuadorian system is characterized by a more comprehensive approach that incorporates community institutions and indigenous justice mechanisms. Thus, Fernandez (2022) analyzes the risks to the safety and health of minors in the context of new technologies, highlighting the need for institutional adaptation to new challenges.

Regulatory differences are also reflected in the principles underlying each system. While the Spanish system privileges legal security and proportionality of measures, the Ecuadorian system emphasizes integral reparation and social justice. These differences influence the interpretation of restorative principles and their practical application. Thus, Perdigones and del Prato (2024) analyze the civil liability of



parents in the context of juvenile justice, showing the complexity of the normative regulation.

Differences in procedures and enforcement mechanisms

The procedures for the application of restorative justice present significant variations between the two systems, reflecting different methodological and conceptual approaches. In Spain, Corrales (2022) shows that the restorative approach has been institutionalized through specialized programs that demonstrate preventive effects on juvenile recidivism, developing specific methodologies for the implementation of restorative processes in the juvenile setting.

The Spanish system has developed specific protocols for the implementation of juvenile criminal mediation, establishing eligibility criteria, referral procedures and follow-up mechanisms. These protocols include the initial evaluation of the case, the preparation of the parties for the restorative process, the conduct of the mediation process and the monitoring of compliance with the agreements. The institutionalization of these procedures has facilitated the systematization of restorative practice and the evaluation of its effectiveness.

In contrast, in Ecuador the mechanisms of application are characterized by the incorporation of elements of integral reparation that transcend the strictly legal dimension, including social, cultural and symbolic aspects. In this way, Monar-Machoa (2024) analyzes critical perspectives on rehabilitation and restorative justice from the sociology of juvenile criminal law, evidencing the complexity of restorative processes in the Ecuadorian context.

Comprehensive reparation in the Ecuadorian system includes material, moral, symbolic dimensions and guarantees of non-repetition, requiring the implementation of measures that transcend traditional economic compensation. This comprehensive approach considers the impact of the crime in multiple dimensions and seeks the holistic restoration of the affected relationships. Thus, Mendoza-Tello et al. (2024) analyze fiscal remission and comprehensive reparation of the aggrieved



in accordance with restorative justice, showing the complexity of the implementation of comprehensive reparation.

Similarly, procedural differences are evident in the role assigned to victims in each system, while Spain has developed specialized statistics on victims in juvenile criminal proceedings (Soto, 2021), Ecuador emphasizes conciliation mechanisms that prioritize the restoration of affected social relations. The Spanish system has developed specific protocols for the participation of victims in restorative processes, guaranteeing their safety and avoiding revictimization.

The Ecuadorian system, on the other hand, incorporates conciliation mechanisms that privilege intercultural dialogue and community participation; thus, Salazar (2020) analyzes conciliations in juvenile criminal justice from the socio-institutional and legal sensitivities, showing the complexity of these processes in the Ecuadorian context. These mechanisms incorporate elements of traditional community justice and seek reconciliation between the parties and the community.

The evaluation of the effectiveness of restorative processes also presents significant differences between the two systems. The Spanish system has developed evaluation instruments that prioritize the measurement of recidivism and the satisfaction of the parties, while the Ecuadorian system incorporates broader criteria that include the restoration of social relations and community strengthening. Thus, Centelles et al. (2021) analyze family acceptance and prosocial behavior in minors with judicial internment measures, showing the importance of considering multiple factors in the evaluation of effectiveness.

Differences in theoretical and philosophical principles

The theoretical differences between the two systems reflect different legal and philosophical traditions that influence the conceptualization and application of juvenile restorative justice. The Spanish system is based on principles of continental European law that privilege legal security, proportionality of measures and normative systematization. Therefore, Blanca (2022) analyzes the sentencing system



in the Spanish penal codification as an expression of these principles, evidencing the influence of the continental legal tradition in the structuring of the penal system.

The Spanish legal tradition emphasizes the importance of legal certainty and the predictability of legal consequences, aspects that influence the configuration of restorative processes. This approach privileges the systematization of procedures and uniformity in the application of restorative measures. The influence of continental European law is evident in the formal structure of the processes, the importance assigned to the documentation of the agreements and the judicial supervision of the restorative processes.

In contrast, the Ecuadorian system incorporates elements of Latin American transformational constitutionalism that emphasizes social justice, integral reparation and community participation. Consequently, penal interpretation in Ecuadorian constitutionalism presents particular characteristics that influence the application of restorative justice (Villacreses-Briones, 2023), generating a conceptual framework that privileges social transformation and the eradication of the structural conditions that generate crime.

Ecuadorian transformative constitutionalism incorporates elements of Latin American political philosophy that emphasize the importance of social justice and the eradication of structural inequalities. This approach considers juvenile delinquency as a manifestation of broader social problems that require comprehensive responses that transcend the strictly penal dimension. The influence of the Andean cosmovision is evident in the importance assigned to the restoration of community equilibrium and community participation in conflict resolution processes.

Philosophical differences are also evident in the conception of juvenile criminal responsibility. While Spain maintains an approach centered on the individual responsibility of the minor, Ecuador develops perspectives that incorporate elements of social and community responsibility in the treatment of juvenile delinquency. Thus, González (2024) analyzes minority of age, unimputability and



criminal responsibility, showing the complexity of these concepts in the juvenile sphere.

The conception of juvenile criminal responsibility in the Spanish system is based on the individual capacity of the minor to understand the unlawfulness of his or her acts and to act in accordance with this understanding. This approach favors the individual evaluation of the capacity for guilt and the determination of measures proportional to the seriousness of the crime and the characteristics of the minor. Responsibility is conceptualized as an individual attribute that can be graduated according to the cognitive and emotional development of the adolescent.

In contrast, the Ecuadorian system develops a conception of juvenile criminal responsibility that incorporates elements of social and community responsibility. This approach considers that individual responsibility must be complemented by the recognition of the social, family and community conditions that influence the adolescent's criminal behavior. Responsibility is conceptualized as a complex phenomenon that requires comprehensive responses that address both individual circumstances and structural conditions.

Differences in the conception of harm also reflect philosophical differences between the two systems. The Spanish system conceptualizes harm primarily in terms of injury to protected legal assets, emphasizing the objective dimension of the harm caused. The Ecuadorian system, on the other hand, develops a broader conception of harm that includes material, moral, symbolic and collective dimensions, recognizing that the crime affects not only the direct victim but also the community and the social fabric.



Table 4. *Comparison of Juvenile Restorative Justice Systems.*

Dimension	Spain	Ecuador
Regulatory Framework	Organic Law 5/2000 consolidated with reforms.	Emerging normative framework influenced by constitutionalism and the guaranteeing of constitutional rights
Constitutional Principles	European continental law, legal certainty, proportionality	Transformative constitutionalism, Andean cosmovision, social justice.
Responsible Institutions	Specialized institutions, specifically trained professionals	Integral approach, community institutions, indigenous justice
Mediation Procedures	Institutionalized protocols, standardized methodologies	Integral processes, ritual and symbolic elements
Eligibility criteria	Technical criteria, risk assessment, proportionality	Comprehensive criteria, consideration of socio-cultural context
Victim participation	Safety protocols, avoidance of re-victimization	Community approach, intercultural dialogue
Reparation Mechanisms	Patrimonial reparation, community services	Integral reparation: material, moral, symbolic
Concept of Responsibility	Graduated responsibility	Complementary individual and social responsibility
Effectiveness evaluation	Measurement of recidivism, parties' satisfaction	Restoration of social relations, community strengthening
Community Role	Limited participation, professionalized approach	Active participation, central element of the process
Assessment tools	Specialized technical risk tools	Comprehensive multidisciplinary assessment
Follow-up	Formal judicial supervision	Community and family accompaniment

Source: Prepared by the authors.

From Table 4, it is evident that the systems of juvenile restorative justice in Spain and Ecuador present two different legal paradigms that reflect different philosophical and methodological conceptions of the treatment of adolescent criminal responsibility:

The Spanish model is characterized by its technocratic and professionalized orientation, based on continental European law and structured on principles of legal security and proportionality. Its regulatory framework, consolidated through Organic Law 5/2000 and its successive reforms, establishes an institutionalized system with standardized protocols, technical eligibility criteria based on risk assessment, and formal judicial follow-up mechanisms that prioritize the measurement of recidivism as an indicator of effectiveness.



In contrast, the Ecuadorian system evidences a holistic and intercultural approach that transcends the traditional parameters of Western juvenile criminal law, based on transformational constitutionalism and the Andean cosmovision, this model integrates ritual and symbolic elements in its mediation procedures, privileges integral criteria that consider the sociocultural context of the adolescent, and conceives reparation from a multidimensional perspective that encompasses material, moral and symbolic aspects. Community participation constitutes a central element of the restorative process, configuring a paradigm of shared responsibility between the individual and the community.

The fundamental divergence lies in the conception of the community: while the Spanish model limits its participation in favor of a professionalized approach, the Ecuadorian model positions it as a leading actor in the restorative process. This differentiation reflects different legal conceptions about the nature of juvenile criminal conflict and the most effective mechanisms for its resolution, evidencing the influence of cultural and constitutional contexts in the configuration of contemporary restorative justice systems.

Emerging Theoretical Contributions

From the comparative analysis generated, emerging theoretical aspects are proposed with the purpose of enriching the state of the question on the basis of the comparative, thus; it is presented:

Hybrid model of juvenile restorative justice

The comparative analysis made it possible to identify the emergence of a hybrid model that incorporates elements of both legal systems, suggesting the possibility of developing integrated approaches that combine the strengths of each system. This model is characterized by the combination of the normative systematization of European continental law with the principles of integral reparation of Latin American constitutionalism. Hybridization makes it possible to overcome the limitations of each individual system, incorporating elements of legal certainty and procedural



effectiveness of the Spanish system with elements of social justice and integral reparation of the Ecuadorian system.

The proposed hybrid model is based on the premise that juvenile restorative justice can benefit from the incorporation of specialized technical evaluation mechanisms, while simultaneously maintaining comprehensive approaches to reparation that consider the socio-cultural particularities of each context. This approach recognizes that the effectiveness of restorative justice depends as much on the technical rigor of the processes as on their cultural and social relevance.

The implementation of the hybrid model requires the adaptation of existing normative frameworks to incorporate elements of flexibility that allow for the consideration of the particularities of each case. This implies the development of protocols that combine procedural systematization with cultural sensitivity, allowing the adaptation of restorative processes to the specific characteristics of each community and cultural context.

From the above; we have the vision of Cortés-Torres (2022) who conducted a bibliometric analysis on trends in legal and educational frameworks of the juvenile penal system, evidencing the convergence towards more comprehensive models that incorporate elements from different legal traditions; this convergence suggests the possibility of developing theoretical and practical frameworks that transcend the limitations of traditional approaches.

Principle of restorative proportionality

The comparison between the two systems evidences the need to develop a principle of restorative proportionality that balances the seriousness of the crime with the reparation measures implemented, overcoming the limitations of the traditional proportionality principle that focuses exclusively on the relationship between crime and sanction. This principle would allow overcoming the limitations of the traditional punitive approach, incorporating criteria of restorative effectiveness in the determination of judicial measures.



Restorative proportionality implies the simultaneous consideration of multiple factors that include the seriousness of the crime, the reparative capacity of the juvenile offender, the specific needs of the victim, the social impact of the crime and the real possibilities of restoring the relationships affected by the criminal conflict; this multifactorial approach requires the development of evaluation instruments that allow for the comprehensive consideration of these factors.

The development of the principle of restorative proportionality also implies the redefinition of the criteria for success in juvenile criminal justice; while the traditional approach privileges the absence of recidivism as the main indicator of success, restorative proportionality incorporates additional criteria such as the satisfaction of the victims, the restoration of social relationships, the development of prosocial competencies in the juvenile and the strengthening of community support networks.

In this way; Lanzas-Iniesta (2023) analyzes the adequacy and specialty of restorative justice in sexual crimes, evidencing the complexity of the application of the principle of proportionality in cases of special gravity, this complexity suggests the need to develop differentiated criteria that consider the specific characteristics of each type of crime and the particularities of the victims.

Differentiated juvenile criminal responsibility theory

The comparative analysis supports the development of a theory of differentiated juvenile criminal responsibility that recognizes the particularities of the cognitive, emotional and social development of adolescents in conflict with the criminal law. This theory is based on the understanding that juvenile criminal responsibility requires specialized approaches that favor the integral formation of the minor over criminal retribution, incorporating elements of the sciences of human development and developmental psychology.

Differentiated juvenile criminal responsibility implies the implementation of multidisciplinary evaluation mechanisms that consider biopsychosocial, family and community factors in determining the most appropriate restorative measures for



each particular case. This assessment should consider the level of cognitive development of the adolescent, his or her capacity to understand the consequences of his or her actions, the influences of the social and family environment, and the possibilities of developing prosocial competencies.

The theory of differentiated juvenile criminal responsibility recognizes that the capacity for responsibility develops gradually during adolescence, requiring differentiated responses according to the level of development reached by each minor. This developmental approach implies the consideration of neurobiological, psychological and social factors that influence adolescents' capacity for self-regulation and decision-making.

Therefore, Vallejo-Valdivieso et al. (2022) analyze the relationship between child abuse and delinquent behavior in male adolescents deprived of liberty, evidencing the importance of considering traumatic experiences in the assessment of juvenile criminal responsibility, this empirical evidence supports the need to develop differentiated approaches that consider the particularities of each case.

Culturally relevant model of comprehensive reparations

The comparative analysis suggests the need to develop a comprehensive reparation model that incorporates elements of cultural relevance, recognizing that conceptions of harm and reparation vary according to specific cultural contexts. This model should consider the particularities of each cultural community, incorporating elements of traditional justice and community conflict resolution mechanisms.

Culturally relevant comprehensive reparation implies adapting reparation mechanisms to the specific conceptions of justice of each community, considering symbolic, ritual and ceremonial elements that facilitate the restoration of social relations. This approach recognizes that the effectiveness of reparations depends on their cultural and social meaning for the parties involved.

The development of this model requires collaboration between the formal justice system and traditional authorities, generating spaces for intercultural dialogue that



facilitate the integration of different conceptions of justice. Therefore, Villamar et al. (2024) analyze the impact of resocialization programs in Latin American women's prisons, showing the importance of considering cultural particularities in the design of interventions.

CONCLUSIONS

The comparative analysis between the restorative justice systems of juvenile criminal law in Ecuador and Spain shows substantive differences that reflect diverse legal, philosophical and cultural traditions. These differences are manifested in three main dimensions: normative and institutional framework, application procedures and mechanisms, and theoretical and philosophical principles that underpin each system. Understanding these differences contributes to the development of the theory of juvenile restorative justice and provides conceptual elements for the improvement of both systems.

First, Spain presents a consolidated normative framework through Organic Law 5/2000, which has allowed the development of specialized technical instruments and institutionalized restorative justice programs. This normative consolidation has resulted in the systematization of procedures, the training of specialized professionals and the development of evaluation instruments that facilitate informed decision making. The Spanish experience demonstrates the importance of having a clear normative framework that facilitates the systematic implementation of restorative justice (Corrales, 2022; Horcajo-Gil et al., 2019).

In contrast, Ecuador is in a process of normative transformation characterized by the influence of guarantor constitutionalism and the incorporation of elements of comprehensive reparation. This transformation process reflects the search for a justice model that transcends the traditional punitive paradigm, incorporating elements of the Andean worldview and principles of social justice. The Ecuadorian experience evidences the possibility of developing alternative approaches that privilege integral restoration over criminal retribution (Cabrera-Cabrera & Maldonado-Ordoñez, 2023; Suárez-Jácome & Moreno-Martínez, 2024).



Second, implementation procedures differ significantly in terms of the role assigned to victims, conciliation mechanisms and criteria for evaluating restorative effectiveness. While Spain has developed specialized statistics and recidivism prevention programs, Ecuador emphasizes comprehensive approaches that incorporate elements of Andean cosmovision and community responsibility. These differences reflect different conceptions about the nature of harm, reparation mechanisms and the role of the community in restorative processes (Soto, 2021; Salazar, 2020).

The participation of victims in restorative processes presents differentiated characteristics in both systems. The Spanish system has developed specific protocols that prioritize victim safety and the avoidance of revictimization, while the Ecuadorian system emphasizes intercultural dialogue and community participation as central elements of the restorative process. These differences suggest the need to develop flexible approaches that consider the particularities of each cultural and social context.

Third, theoretical and philosophical differences reflect the influence of continental European law in the Spanish system and Latin American transformational constitutionalism in the Ecuadorian system. These differences are manifested in the conception of juvenile criminal responsibility, the principles of proportionality and the objectives of state intervention in juvenile delinquency. The influence of different philosophical traditions generates different interpretative frameworks that influence the practical application of restorative justice (Blanca, 2022; Villacreses-Briones, 2023).

The conception of juvenile criminal responsibility presents fundamental differences between the two systems. While the Spanish system maintains an approach centered on the individual responsibility of the juvenile, the Ecuadorian system develops perspectives that incorporate elements of social and community responsibility. These differences reflect different conceptions of the causes of juvenile delinquency



and the most effective mechanisms for its prevention and treatment (González, 2024).

The theoretical contributions emerging from the comparative analysis suggest the possibility of developing hybrid models of juvenile restorative justice that incorporate elements of both systems, while maintaining the normative systematization of European continental law and the principles of integral reparation of Latin American constitutionalism. The development of these hybrid models requires the adaptation of existing normative frameworks and the training of professionals capable of implementing comprehensive and culturally relevant approaches.

The principle of restorative proportionality emerges as a significant theoretical contribution that allows balancing the seriousness of the crime with the reparation measures implemented, overcoming the limitations of the traditional punitive approach. This principle requires the development of multifactorial assessment tools that consider not only the seriousness of the crime but also the needs of the victims, the reparative capacity of the juvenile and the possibilities of restoring social relations.

The theory of differentiated juvenile criminal responsibility provides conceptual elements for the development of specialized approaches that recognize the particularities of adolescent development. This theory implies the implementation of multidisciplinary evaluation mechanisms that consider biopsychosocial, family and community factors in determining the most appropriate measures for each case.

FUNDING

Non-monetary

CONFLICT OF INTEREST

There is no conflict of interest with persons or institutions involved in the research.



ACKNOWLEDGMENTS

To the jurists who work in favor of restorative justice with emphasis on the juvenile penal system.

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Verdad y Derecho
Revista Arbitrada de Ciencias Jurídicas y Sociales
Vol. 4(2), 11-43, 2025

Análisis comparativo sobre justicia restaurativa del sistema penal juvenil de Ecuador y España
Comparative analysis of restorative justice in the juvenile justice systems of Ecuador and Spain
Patricio Alfredo Vallejo-Valdivieso
Patricio Yosué Vallejo-Pilligua
Graciela Hernestina Zambrano-Pincay
Natalia Pérez-Rivas

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