

## Article

# Evaluation of public policies on re-education and reintegration in Spain: effectiveness, governance and compliance with the SDGs



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### KEYWORDS:

Social reintegration, recidivism, alternative sanctions, public policies, democratic governance, SDG, penitentiary.

### ABSTRACT:

This article evaluates the effectiveness of public policies on re-education and social reintegration in Spain from a legal and criminological perspective, incorporating a democratic governance approach and its link to the Sustainable Development Goals (SDGs). Using a mixed methodology that combines normative analysis and empirical data, the study assesses whether current policies comply with Article 25.2 of the Spanish Constitution. The findings show that alternative sanctions to imprisonment, such as suspended sentences and community service, achieve better outcomes in reducing recidivism than custodial penalties. Intervention programs, particularly in cases of gender-based violence, also demonstrate positive results. However, important limitations persist, including insufficient evaluation mechanisms and weak post-prison support. The study concludes that effective reintegration requires not only appropriate legal frameworks but also strong governance, institutional coordination, and alignment with international standards, especially SDG 16, in order to build a more just and inclusive penal system.

PALABRAS CLAVES:

Reinserción social, reincidencia, penas alternativas, políticas públicas, gobernanza democrática, ODS, penitenciario.

RESUMEN:

Este artículo evalúa la eficacia de las políticas públicas de reeducación y reinserción social en España desde una perspectiva jurídica y criminológica, e incorpora un enfoque de gobernanza democrática y su vinculación con los Objetivos de Desarrollo Sostenible (ODS). A partir de una metodología mixta que combina análisis normativo y datos empíricos, el estudio analiza si las políticas actuales cumplen con el artículo 25.2 de la Constitución española. Los resultados muestran que las penas alternativas a la prisión, como la suspensión de la pena y los trabajos en beneficio de la comunidad, logran mejores resultados en la reducción de la reincidencia que las penas privativas de libertad. Los programas de intervención, en especial en casos de violencia de género, también presentan resultados positivos. Sin embargo, persisten limitaciones relevantes, como la insuficiencia de mecanismos de evaluación y la debilidad del apoyo postpenitenciario. El estudio concluye que una reinserción efectiva exige no solo marcos jurídicos adecuados, sino también una gobernanza sólida, coordinación institucional y alineación con estándares internacionales, especialmente el ODS 16, con el fin de construir un sistema penal más justo e inclusivo.

MOTS CLES :

Réinsertion sociale, récidive, sanctions alternatives, politiques publiques, gouvernance démocratique, ODD, système pénitentiaire.

RESUME :

Cet article évalue l'efficacité des politiques publiques de rééducation et de réinsertion sociale en Espagne à partir d'une perspective juridique et criminologique, en intégrant une approche de gouvernance démocratique et son lien avec les Objectifs de développement durable (ODD). À partir d'une méthodologie mixte qui combine analyse normative et données empiriques, l'étude examine si les politiques actuelles respectent l'article 25.2 de la Constitution espagnole. Les résultats montrent que les sanctions alternatives à l'emprisonnement, telles que la suspension de peine et le travail d'intérêt général, obtiennent de meilleurs résultats en matière de réduction de la récidive que les peines privatives de liberté. Les programmes d'intervention, en particulier dans les cas de violence de genre, présentent également des résultats positifs. Toutefois, des limites importantes subsistent, notamment l'insuffisance des mécanismes d'évaluation et la faiblesse du soutien post-pénitentiaire. L'étude conclut qu'une réinsertion effective exige non seulement des cadres juridiques adéquats, mais aussi une gouvernance solide, une coordination institutionnelle et un alignement sur les standards internationaux, en particulier l'ODD 16, afin de construire un système pénal plus juste et inclusif.

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## 1 INTRODUCTION

The re-education and social reintegration of convicted persons is one of the fundamental principles of the Spanish penal system, enshrined in article 25.2 of the Spanish Constitution, according to which custodial sentences must be oriented towards re-education and social reintegration. This constitutional mandate not only constitutes a guiding principle for criminal enforcement, but also requires the implementation of effective public policies capable of materializing this objective in institutional practice. The real effectiveness of this resocializing model depends, therefore, on the design, implementation and evaluation of the public policies developed in the penal and penitentiary spheres.

In recent decades, the Spanish penal system has incorporated various instruments aimed at promoting the social reintegration of convicted persons, such as alternative sentences and measures to prison, re-educational intervention programmes or individualised prison treatment. However, the effectiveness of these policies continues to be debated in both the legal and criminological literature, especially in relation to their actual capacity to reduce recidivism and facilitate effective processes of social reintegration.

In this context, the evaluation of public policies in the field of re-education and social reintegration acquires special relevance. Beyond its normative formulation, it is essential to empirically analyze the results of the policies implemented, as well as the institutional factors that condition their effectiveness. This analysis is particularly relevant in specific areas of intervention, such as programmes aimed at people convicted of crimes of gender violence, which constitute one of the main examples of practical application of the resocialising ideal in the contemporary penal system.

Next, the effectiveness of public policies on re-education and social reintegration in Spain will be analysed from a legal and criminological perspective, incorporating a public governance approach and its relationship with the Sustainable Development Goals. To this end, the normative analysis of the current legal framework is combined with the empirical study of data related to the implementation of these policies. This approach aims to assess the extent to which the resocialising policies currently applied comply with the constitutional mandate and contribute to the development of more effective, inclusive and social welfare-oriented institutions.

## 2 ANALYTICAL FRAMEWORK

### 2.1 FUNDAMENTAL RIGHTS

It is essential to conceptualize what we understand by *fundamental rights*. Our model of democratic State and Law must be the guarantor of safeguarding some rights that we consider essential or *fundamental* as a society. This marks a clear difference with *human rights*, which are absolute to the human being regardless of their context (Pérez Luño, 2010). Despite these apparent differences in the nature of the two concepts, it is clear that many *human rights* fall within the category of *fundamental rights*, as the two expressions obviously tend to overlap. It is important to analyse the object of study from a human rights-based approach (Imormino de Haro, 2022), which not only ensures that public policies respect people's rights, but also provides a framework for evaluating the effectiveness of such policies and determining whether it is necessary to redesign strategies based on specific objectives or purposes such as re-education and social reintegration. Thus, it is essential to respect human rights, established both in law and in international treaties, without which the process of readaptation and reintegration would not be successful (Mantilla & Morales, 2024).

## 2.2 DEMOCRATIC GOVERNANCE POLICIES

To analyze the term *democratic governance* (Martín Cubas et al., 2019) and relate it to the purposes of the penalty, we must introduce some concepts that become basic. The idea of *governance* must be oriented towards a more empirical and not so normative approach (Arellano Gault, 2015).

It is necessary to distinguish the idea of *government* as a central component of *governance* (Meadowcroft, 2013). We understand *governance* as a multidimensional concept that encompasses different subjects, processes, structures and institutions involved in the making and implementation of political decisions (Treib et al., 2007). Governance contemplates different institutions, sectors and levels of *government* (Bevir, 2011; Parés Franzi, 2009). There are many supranational bodies that use *governance* as a way of *governing*. Since the last decade of the twentieth century, large international organizations (Fernández Liesa et al., 2022) (such as the Organization for Economic Cooperation and Development – OECD (García-Peña, Díaz & Muñoz, 2022), the International Institute for Democracy and Electoral Assistance – International IDEA, the World Bank, the International Monetary Fund – IMF, and multiple NGOs, among others), have promoted the model of *democratic governance* (Woods, 1999).

More recently, we can find the *Sustainable Development Goals*, as a product of *democratic governance* (Jiménez Asensio, 2019). Strengthening democratic institutions can lead to further progress in implementing the *Sustainable Development Goals* (SDGs). Both *participatory and democratic* (Castellanos Claramunt, 2012) governance structures seem to facilitate the decision-making process, implementation and acceptance of policies aimed at achieving *sustainable development*. Democratic institutions create an enabling environment for the achievement of the SDGs by ensuring accountability and transparency in policymaking, as well as political responsiveness (Glass & Newig, 2019). In short, *democratic governance* policies promote, support and preserve equity, participation, transparency, accountability, pluralism and development, as well as open government, networked government and multilevel government (Jimena Quesada, 2020), focusing on the effectiveness and efficiency of the State and its legitimacy in the eyes of citizens<sup>1</sup>; principles and values intrinsic to democracy (Cerrillo I Martínez, 2005; Gallicchio, 2010).

Democratic *governance* policies involve a series of lines of action, among which are: territorial development, good governance and the construction of citizenship, strategic planning, inclusion and social cohesion, and others, such as access to justice, prevention of violence and reintegration of people deprived of liberty. All of them are part of the global vision that can be observed of an adequate application of policies for the re-education and social reintegration of offenders. Among them, the main one stands out is the line of action whose purpose is to achieve the reintegration of persons deprived of liberty, and also to better achieve the fight for the prevention of crime.

A key issue to correct some deficiencies in the way of implementing resocialization policies may involve a change in the model of governance and in the political culture of the territories (Martín Cubas, 2021). To this end, it is necessary for each of these territories to have a consensus on which to commit to a path, through which specific strategies are designed in order to meet the challenge of development, that is, a better future.

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<sup>1</sup> EUROSOCIAL. Programme for social cohesion. Available in <https://eurosocial.eu/politicas-de-gobernanza-democratica/>

One of these routes is given by the *Sustainable Development Goals*, which aim to provide us with governance at a global level, through minimum, shared and agreed objectives ([Martín Cubas & Cano Pérez, 2023](#)).

### 2.3 THE SUSTAINABLE DEVELOPMENT GOALS

The adoption of the *2030 Agenda* to achieve the *Sustainable Development Goals* (SDGs) by the United Nations in 2015 is an extraordinary challenge for the signatory States, which is the starting point for major projects and reforms in a world that is constantly evolving. We can highlight that it is an international agreement of an unusual nature, and that it proposes advances of great magnitude such as the Global Constitutionalism Agenda of a basically social nature ([Jimena Quesada, 2019](#)), oriented towards a legal order of global scope. This covenant, due to its impact and powerful symbolic value, can only be compared with other important texts such as the Universal Declaration of Human Rights<sup>2</sup>, the International Covenant on Civil and Political Rights<sup>3</sup> or the International Covenant on Economic, Social and Cultural Rights<sup>4</sup>.

Similarly, the SDGs operate on the basis of United Nations General Assembly Resolution 2625 (XXV)<sup>5</sup> of 24 October 1970. This agreement contains the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. The text establishes a series of principles and objectives to be fulfilled by the acceding States ([Vázquez Serrano, 2021](#)), among which cooperation between States, the strengthening of world peace and the rule of law stand out, which would contribute as basic pillars for the norms that should govern international relations ([Remiro Brotons, 2020](#)). Through international cooperation, it seeks to achieve better development and has the human being as its ultimate goal. Added to this is the recognition, as an essential principle in international relations, of good faith, which implies the fulfilment of its commitments, assumed voluntarily; in short, the fulfilment of the SDGs today ([Quispe Remón, 2022](#)).

Through the 17 proposed Goals, the aim is to achieve a so-called “planetary citizenship”, with education as the backbone ([Murga-Menoyo, 2020, p. 18](#)). Objectives that should not remain merely intentions or proposals, but must have the appropriate mechanisms for them to be carried out effectively. Only in this way can the desired transformations be achieved ([Agut & Del Pilar, 2015](#)). Putting into practice what was first specified as the theoretical Sustainable Development Goals implies facing numerous difficulties and situations of enormous complexity ([Stanley et al., 2017](#)). This international agreement establishes goals and targets that serve as a guide for the international community, but also for civil society, on the path to sustainable development.

It is necessary to focus more exhaustively on Goal number 16 ([Cacho Sánchez, 2019](#)), which deals with peace, justice and solid institutions, with the title: Promote just, peaceful and inclusive societies. When implementing actions, it is convenient to distinguish three main categories in which we would classify the goals. We can group them into three general actions:

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<sup>2</sup> UN. *Universal Declaration of Human Rights*. Resolution A/RES/217(III), adopted on 10 December 1948.

<sup>3</sup> UN. *International Covenant on Civil and Political Rights*. Resolution 2200 A (XXI), adopted on 16 December 1966.

<sup>4</sup> UN. *International Covenant on Economic, Social and Cultural Rights*. Resolution 2200 A (XXI), adopted on 16 December 1966.

<sup>5</sup> UN. *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*. Resolution 2625 (XXV), adopted on 24 October 1970.

1. Promote crime prevention and social reintegration (SDGs 16.1, 16.2, 16.4, 16.5, 16.a)
2. Promote international cooperation (SDGs 16.3, 16.8, 16.9, 16.a)
3. Increase the democratic quality and transparency of administrations (SDGs 16.3, 16.5, 16.6, 16.7, 16.10, 16.a, 16.b)

As can be seen, these three categories are supported by other SDGs, reinforcing the need to look at these Goals holistically, given the high degree of interconnection between them. Therefore, the study and implementation of actions in the field of policies aimed at the re-education and social reintegration of convicted persons must be approached from a comprehensive perspective. As [MONTERO CARO \(2021\)](#) reflects, it is essential to integrate the SDGs in the field of research.

### 3 METHODOLOGY

Legal methodology involves carrying out a process of normative interpretation and requires contextualizing this process from some key concepts from contemporary challenges. To this end, concepts that seek to achieve a better model of global justice will be addressed, such as public policies of democratic governance and the Sustainable Development Goals. In addition, from a criminological prism, an empirical analysis is carried out.

Within this framework, we will focus on the study of fundamental rights as the axiological and guarantor core of our Spanish legal system.

#### 3.1 EMPIRICAL ANALYSIS OF RE-EDUCATION AND SOCIAL REINTEGRATION POLICIES

The application of regulations on the re-education and social reintegration of convicts entails the implementation of a series of policies in the penal and penitentiary spheres. Therefore, an adequate application of Article 25.2 of the Spanish Constitution necessarily implies the design and development of public policies that make the constitutional mandate effective. The development of these public policies must be subject to systematic evaluation in order to measure their real effectiveness in achieving regulatory purposes, ensure accountability and facilitate continuous improvement. Through an empirical analysis we can verify the effectiveness of the policies implemented and thus be able to redesign or adjust them according to the objectives of the standard. Without evaluation, normative principles lose their transformative capacity and become programmatic statements without legal or social effectiveness ([Pérez Luño, 2010](#)). Thus, the evaluation of public policies entails an essential duty to ensure that the use of public funds and tools generates an effective impact on people's lives ([Caminal Badía, 2023](#)).

The process of evaluating public policies involves research from empiricism. On the one hand, quantitative data will be collected from official institutional sources, such as the National Institute of Statistics or the General Secretariat of Penitentiary Institutions. Data will also be collected from numerous authors or experts who have carried out scientific research in this field of study.

In short, we will try to answer the following question: To what extent do public policies for re-education and social reintegration in Spain effectively comply with the constitutional

mandate of Article 25.2 of the Spanish Constitution and international standards of democratic governance?

## 4 INSTRUMENTS OF REINTEGRATION POLICY IN SPAIN

Article 25.2 of the Spanish Constitution grants a wide range of possibilities to the legislator to regulate the custodial sentence and to governments to specify the various political-criminal options (Leganés Gómez, 2019). Next, we will study how the implementation of numerous public policies has shaped the regulation of this constitutional precept in the Spanish legal system.

### 4.1 PENAL CODE

Historically, the Penal Code has served as a merely punitive sanctioning instrument. This normative text has gradually incorporated mechanisms of a utilitarian nature to penalties and security measures, moving away from the purely retributive conception that existed in the past. The desire to achieve a penal system focused on *re-education* and *social reintegration* has posed a challenge in terms of criminal policy. The legislator has been developing the constitutional guidelines on the purposes of punishment through figures that we are already familiar with, such as custodial sentences and their tools aimed at achieving these objectives. And it has gone a step further, betting on new figures who can be equally satisfactory on the road to the resocializing ideal.

In the case of the Penal Code, we find a variety of figures that facilitate *re-education* and *social reintegration*. Numerous authors have referred to the need to apply various measures to replace the prison sentence (García Valdés, 1977; Mapelli Caffarena, 1983). There are reasons to continue betting on the expansion of the system of alternative sentences to the detriment of prison, as a way towards a more effective *resocialization*. These decarceration policies are based on reasons of humanity, costs and criminogenic factors (Nagin et al., 2009; Petrich et al., 2020; Villettaz et al., 2015).

When studying the formulas contained in the Penal Code, we find alternative systems to the *prison sentence* during the execution phase of the sentence, such as the *suspension of sentences*, the *substitution of penalties for expulsion*, the *penalty of fine*, *work for the benefit of the community*, *permanent location*, and the application of the *prison telematic means*, among others (Fernández Bermejo, 2014).

#### 4.1.1 Suspension of sentence

The *suspension of sentence* is one of the most important mechanisms in this regard, to which we have already referred. This is a benefit that can be granted by the Administration of Justice to people sentenced to custodial sentences when circumstances listed in the Criminal Code occur, and whose purpose is to avoid the imprisonment of the convicted person. In this way, it is possible to avoid further desocialization of the offender, trying to achieve the ends of the sentence without resorting to a burdensome and restrictive measure

of rights such as deprivation of liberty in prison. The possibility of suspending a custodial sentence is regulated by article 80 of the Criminal Code, including the requirements and conditions that allow you to opt for it. The Constitutional Court of Spain reminds us that this mechanism aims to facilitate the re-education and social reintegration of convicts, since the figure of suspension is an alternative to the desocializing effects that short-term custodial sentences may entail. Recent resolutions reinforce the mechanism of suspension of sentence as a facilitator of reintegration into our criminal legal system<sup>6</sup>, since the execution of an excessively short custodial sentence would be seriously harmful to the social reintegration of the offender and that, therefore, if it had been served in prison, the constitutional purpose of the sentences would not be met. As for the conditions for granting this benefit, the aforementioned judgment contemplates applying policies aimed at these ends in these cases in which the offender, considering his economic capacity, has no way of complying with the payment of the civil liability derived from the crime. This would constitute a positive measure to prevent entry into prison from being dependent on the economic resources of the convicts, being in turn a policy aimed at the social reintegration of people with less economic capacity.

At the same time, *the suspension with probation* would meet the ideal components to facilitate an adequate resocialization of the convict, as has already been studied previously. Probation is a measure that makes it possible to replace the effective execution of the custodial sentence with a probationary period during which the convicted person must observe certain conditions that favor his social reintegration (Mir Puig, 2023). As an example, we find the mandatory compliance with training programs for those convicted of crimes of gender violence.

#### 4.1.2 Projection of alternative sentences to imprisonment

What would be the punitive model to follow? It is difficult to respond to this approach, but the prison reality of the current model must be studied to observe patterns that allow us to detect formulas for improvement. CID MOLINÉ (2025) defends various types of sanctions depending on their rehabilitative content: “The most common way in which we punish are alternative penalties without rehabilitative content (such as *the ordinary suspension of the sentence* or the *penalty of a fine*). The second form of punishment is community punishment with rehabilitative intervention (including here suspension *with probation* and TBC). Finally, *prison* is the most exceptional response of our punitive system”. Although we can affirm that practically all punitive models intrinsically contain a rehabilitative nature to a greater or lesser extent, what seems to have a certain consensus is that some types of penalties contemplate greater rehabilitative effects than others. Thus, we clearly observe the multiple advantages that the system of alternative sentences offers to prisoners. The probation model and TBCs are postulated as highly resocialized execution models, and whose implementation has been increasing in Spain to reach a stable and consolidated trend.

Regarding the types of sentences imposed, a study by BLAY GIL and VARONA GÓMEZ (2021) analysed primary data obtained from executions of the Criminal Courts of Barcelona and Girona for the years 2015 and 2016. The results of the research showed that the fine is the most applied penalty (46%), followed by prison (44%). However, after suspension and replacement, the effective prison sentence is limited to 9.11%. Ordinary suspension represents 27.65%, substitution 5.78% and TBC 8.48% of the total sentences. A study that

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<sup>6</sup> STC 184/2023, of 11 December.

reveals the need to focus legal-criminological research on alternative measures to the prison sentence, since they constitute the most commonly practiced form of execution.

More recently, data from the [National Institute of Statistics \(INE\)](#) show that in 2021 in Spain the percentage distribution of the main penalties imposed is distributed as follows: 30.43% imprisonment, 55.52% fine, 12.64% TBCs, 1.22% permanent location, 0.19% expulsion of foreigners. Since the beginning of the twenty-first century, the historical evolution of the imposition of these penalties has shown a decreasing role of the prison sentence, justified by an increase in the imposition of sentences of community service and fines ([Guardiola García, 2024](#)).

Table 1: Percentage distribution of the main sentences imposed in Spain in 2021

Type of penalty	Prison	Fine	Work for the benefit of the community	Permanent location	Expulsion of aliens
Percentage	30,43 %	55,52 %	12,64 %	1,22 %	0,19 %

Source: Authors' elaboration based on INE data collected by [GUARDIOLA GARCÍA, 2024](#).

According to the 2023 General Report prepared by the [General Secretariat of Penitentiary Institutions \(2024\)](#)<sup>7</sup>, of the 84,207 new orders received during 2023 in the Sentence Management and Alternative Measures Services, 12,136 correspond to suspensions/substitutions of sentences (14.4%) and 72,071 are for work for the benefit of the community (85.6%). Therefore, in the Spanish reality, most of the mandates managed by these Services correspond to TBCs. Classified by type of crime, the number of TBC warrants was: 28,696 for gender violence, 22,777 for crimes against road safety, 7,288 for injuries, 7,448 for crimes against property, and 5,862 for other types of crimes.

Table 2: Distribution of TBCs in Spain by type of crime in 2023

Criminal typology	Gender-based violence	Against road safety	Injuries	Against heritage	Other crimes
TBC Commandments	28.696	22.777	7.288	7.448	5.862
% of total TBCs	39,8 %	31,6 %	10,1 %	10,3 %	8,1 %

Source: Prepared by the author based on data from the [General Secretariat of Penitentiary Institutions, General Report 2023](#).

With regard to empirical research on these alternative sentences, despite the scant research, most studies show that TBCs are the best way to achieve social integration of convicted persons ([Klement, 2015](#); [Sirén & Savolainen, 2013](#); [Wermink et al., 2010](#)). In Spain, there are also good results in this regard. [CID MOLINÉ \(2024\)](#) reflects that the application of the principles of effective supervision (effective use of authority and modelling and reinforcement) by supervisors of persons sentenced with TB is associated with better results in terms of compliance with the obligations of the measure, lower rates of recidivism during compliance,

<sup>7</sup> MINISTRY OF THE INTERIOR. Spain. General Secretariat of Penitentiary Institutions. *General Report 2023*, Ministry of the Interior, 2024, pp. 183 and 188.

a greater attitude of desist, and a higher level of social reintegration on the part of the participants.

A study carried out by [MARTÍN NIETO, MUÑOZ DE MORALES and RODRÍGUEZ YAGÜE \(2017, p. 95\)](#) concludes that “a system of alternatives can only work, and this is another serious shortcoming, if there is the necessary infrastructure to make it work. On the one hand, the judicial culture must be changed, which would be influenced by the creation of a specialized body to advise the judge in the choice of alternatives. It is also necessary to have a true *probation* agency, with a system of real and effective control of alternative measures, equipped with means and specialized personnel”. These are a series of recommendations aimed at improving the judicial system, but which necessarily involve the legislative implementation of specific policies, aimed at a better application of justice with a view to the purposes enshrined in Article 25.2 EC. It is here where the figure of Criminology professionals can be of great help, counting on such experts who can contribute to the application of alternative measures to prison from an interdisciplinary vision.

There is the figure of *delegates for the execution of alternative criminal measures*, professionals in charge of supervising their compliance. In Catalonia, these positions depend on the Department of Justice of the Catalonia Government. Its work is the supervision of the application of work for the benefit of the community, supervision of suspensions of sentence conditioned on training programs and suspensions in the field of drug dependence, among others. In addition, they play an essential role in monitoring the evolution of the convicts through periodic interviews with them ([Blay Gil, 2019](#)).

In the case of TBCs, unlike a fine or a suspended sentence, a rehabilitative intervention can be achieved with very positive effects thanks to the influence of those in charge of sentencing when their action is aimed at a re-educational process based on social learning ([Dowden & Andrews, 2004](#)). Perhaps it would be appropriate to ask ourselves whether this penalty should be considered as an optional penalty applicable to more types of crime than those currently contemplated by the Penal Code ([Cid Moliné, 2024](#)).

### 4.1.3 General Penitentiary Law and Penitentiary Regulations

The articles of both the General Penitentiary Law (Organic Law 1/1979, of 26 September) and the Penitentiary Regulations (Royal Decree 190/1996, of 9 February) find their constitutional basis in the principle of resocialisation of article 25.2 of the Spanish Constitution. This provision has served as a clear source of inspiration for the preparation and application of these prison rules ([Manzanares Samaniego, 2015](#)). And, on the contrary, the constituent power wanted to enshrine in the Constitution an article clearly influenced by the Penitentiary Law (Article 1), and which would later be developed by the Penitentiary Regulations (Article 2):

“1. Prison treatment consists of the set of activities directly aimed at achieving the re-education and social reintegration of convicts.

2. The treatment is intended to make the inmate a person with the intention and capacity to live in compliance with the criminal law, as well as to provide for his or her needs. To this end, efforts shall be made, as far as possible, to develop in them an attitude of self-respect and individual and social responsibility towards their family, neighbour and society in general”.

Both the General Organic Law on Prisons and its implementing regulations seek greater progressivity in terms of the most beneficial execution of the custodial sentence with a progressive regime of trust in the convict, favouring measures that grant him a greater margin

of freedom. The aim is to prevent less dangerous individuals from entering prison, so that the subject does not lose his job and can meet the economic needs of his victim, and that the desocialising effects of being in prison are avoided, providing the custodial sentence with a more sensitive and more humane model. Thus, we find articles 59 and following of the Law under study, which refer to prison treatment. These articles establish the characteristics of the processing, stating its resocializing purpose, giving it a practical context.

Article 60 of the Act reflects the individualization of treatment, seeking to adapt it to the personality and environment of the prisoner, reducing obstacles to the purposes indicated. To this end, all possible methods of processing will be applied, always respecting their constitutional rights.

As stated in Article 112 of the Regulations, prison treatment is voluntary for the inmate ([Solar Calvo, 2018](#)). Although this is not expressly included in the Law, it can be deduced from inductive reasoning when making a general reading of the rule.

From the regulations analysed, it is clear that the legislator will to give shape to Article 25.2 of the Spanish Constitution, through the application of prison treatment. [GARCÍA VALDÉS \(1982\)](#) already made a very positive assessment of the Spanish normative regulation of prison treatment, describing it, scientifically and systematically, as one of the greatest achievements of the organic text.

At the same time, Title IV of the Prison Act is devoted to *post-prison assistance* (articles 73 to 75), which obliges the Administration to ensure the full social reintegration of those convicted persons who have extinguished their criminal responsibility and to provide them with the necessary social assistance through the Social Assistance Commission.

## 5 RESULTS: THE EMPIRICAL REALITY OF THE PURPOSES OF RE-EDUCATION AND SOCIAL REINTEGRATION IN THE SPANISH CASE

One of the major problems that arise when measuring the effectiveness of policy implementation in this area is that there are very few indicators that serve as a control mechanism. Insufficient research activity in this area is a major limitation in assessing which are the most effective policies for achieving the goals that should guide the course of our society. Specifically, it is essential to measure the effectiveness of the policies developed in the penal and penitentiary field to verify whether they scientifically favor an adequate process of re-education and social reintegration.

How to measure the effectiveness of public policies in terms of resocialization? The social reintegration of the subject must be approached holistically, not limiting ourselves to a single variable of criminal recidivism. Therefore, quantitative and qualitative data must be combined.

According to the most recent data from the [National Institute of Statistics \(INE\)](#)<sup>8</sup> for the year 2023, 25.1% of those convicted in 2023 were convicted of more than one crime, which may indicate cases of recidivism. However, it does not offer more data on the period in which such criminal acts are committed, so we will have to pay attention to other data such as those offered by the Ministry of the Interior.

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<sup>8</sup> NATIONAL INSTITUTE OF STATISTICS (INE). *Statistics on convicts: Year 2023*, Madrid, 2024. Available in <https://www.ine.es/dyngs/Prensa/es/ECAECM2023.htm>

In fact, the 2009-2019 Penitentiary Recidivism Study, prepared by the [General Secretariat of Penitentiary Institutions \(2022\)](#), quantitatively analysed the number of inmates who re-entered prison for criminal acts subsequent to their commission in 2009 and over the following 10 years in Spain. The research concluded that the overall recidivism rate provided by the data is 19.98%. In addition, 53.01% of repeat offenders committed a crime again within the first three years after their release. Which, calculated with reference to the total prison population, would mean a recidivism rate in the first three years of 10.59<sup>9</sup>.

Table 3: Prison recidivism rate in Spain (2009-2019)

<i>Indicator</i>	<i>Value</i>	<i>Observations</i>
Overall Recidivism Rate (2009-2019)	19,98 %	Percentage of people released in 2009 who re-entered prison for new crimes in the following 10 years.
Recidivism rate in the first 3 years after release	10,59 %	More than half of the repeat offenders in the study (53.01%) did so during the first three years after leaving prison.

*Source: Prepared by the authors based on data from the General Secretariat of Penitentiary Institutions, Penitentiary Recidivism Study 2009-2019.*

With regard to the recidivism rates of persons punished with imprisonment compared to those who avail themselves of suspended sentences, the probability of recidivism increases when a person is sentenced to prison rather than to suspension. The existence of a greater stigmatizing effect of the prison sentence compared to alternative sentences is observed. As [CID MOLINÉ \(2007\)](#) argues, a criminal policy of response to crime must be reinforced that seeks to reduce the use of prison in favour of responses that do not involve deprivation of liberty, which produce less recidivism than prison. It particularly defends the measure of suspension of sentence, which significantly reduces the probability of recidivism with respect to those sentenced to prison sentences.

## 5.1 EFFECTIVENESS OF INTERVENTION IN THE AREA OF GENDER-BASED VIOLENCE

With regard to the fight against gender violence, article 33 of the Law on Gender Violence (LO 1/2004 – LVG) reforms the Penal Code by conditioning the suspension of the sentence for gender violence to compliance with the obligation to carry out a re-education programme. At the same time, article 42 provides that the prison administration will carry out specific programmes for inmates convicted of crimes related to gender violence.

In the field of gender violence in Spain, the main research points to data on police recidivism of less than 10% once the treatment of aggressors of gender violence in the alternative environment has been completed, according to [ALARCÓN DELICADO \(2023, p. 3\)](#). Other studies on recidivism of aggressors in crimes of gender violence reflect a recidivism rate of 6.4% in a period of 12 months (8.8% total, which is distributed between 6.4% of those reported for a new crime of gender violence and 2.4% for other crimes unrelated to gender violence) ([Pérez Ramírez & Martínez García, 2010](#)). Others reflect a recidivism rate of 4.8% of those who completed treatment, compared to 6.8% of recidivism in the control group, in a

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<sup>9</sup> MINISTRY OF THE INTERIOR. Spain. General Secretariat of Penitentiary Institutions. Study of penitentiary recidivism 2009-2019. *Penitentiary Documents*, no. 30, Ministry of the Interior - General Technical Secretariat, 2022, p. 67.

period of 6 to 12 months (Redondo Rodríguez, 2012). Or studies that reflect a recidivism rate of 6.38%, in a period of 18 months (Boira Sarto et al., 2013).

Table 4: Police recidivism rate in those convicted of crimes of gender violence after intervention programs

<i>Study</i>	<i>Observation period</i>	<i>Recidivism rate</i>
Pérez Ramírez and Martínez García	12 months	6.4% (recidivism due to gender-based violence)8.8% (total recidivism)
Redondo Rodríguez	6-12 months	4.8% (treated)6.8% (control group)
Boira Sarto et al.	18 months	6.38% (recidivism due to gender violence)

Source: Authors' elaboration based on data from PÉREZ RAMÍREZ and MARTÍNEZ GARCÍA, REDONDO RODRÍGUEZ, and BOIRA SARTO et al.

Focusing on the effectiveness of the *Context* program, CONCHELL et al. (2016) concludes that the passage through the intervention program means a reduction in the risk of recidivism that, in addition, tends to be maintained over time, a key issue in terms of the protection of possible future partners of users. The data to measure the recidivism rate were obtained through the VIOGEN database of the Ministry of the Interior, reporting recidivism rates of around 9.45%, in a period of 18 months.

Regarding the efficacy of *PRIA*, as a version prior to *PRIA-MA*, the study by PÉREZ RAMÍREZ, GIMÉNEZ-SALINAS FRAMIS and DE JUAN ESPINOSA (2018) demonstrated crime recidivism rates of 4.6% at the end of the program and 6.8% at 5 years, affirming the effectiveness of the program in reducing the recidivism rate of intimate partner aggressors. The data were prepared based on the analysis of new police reports and extended the follow-up period of the study to 5 years. A follow-up period of 5 years would be adequate for most investigations in this area (Andrés-Pueyo, 2015), given that the incidence of criminal repetition is concentrated in this period of time (Tutty & Babins-Wagner, 2019).

For MACEIRA (2018, p. 59), “these data are very encouraging, resulting in recidivism rates among the lowest considering criminal recidivism in other intervention programs evaluated around the world”, and concludes that “Spain can currently boast of a very powerful intervention tool on gender aggressors, 93.2% of users of the *PRIA-MA* program have successfully managed to continue with the course of their lives”.

A subsequent study by ALARCÓN DELICADO (2023) used the variable of judicial (and not police) recidivism to measure the effectiveness of *PRIA-MA*. A sample of 101 people convicted of crimes of gender violence who were given alternative penal measures in the Alicante Penitentiary Center participated, specifically, mandatory participation in *PRIA-MA*. The main variable studied was judicial recidivism, considering it as the appearance of new convictions for crimes of gender violence once the *PRIA-MA* intervention was completed, during a follow-up period of two years. The result of the investigation, after two years of follow-up for crimes of gender violence, showed a recidivism rate of 6.3% (and, in addition, 1.3% were sentenced for crimes of different types).

Table 5: Recidivism rate in those convicted of gender violence according to the intervention program applied

<i>Study</i>	<i>Program</i>	<i>Follow-up period</i>	<i>Type of Recidivism</i>	<i>Recidivism rate</i>
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Conchell Diranzo, Lila Murillo and Catalá-Miñana	Background	18 months	Police	9,45 %
Pérez Ramírez, Giménez-Salinas Framis and De Juan Espinosa	PRIA	End of program / 5 years	Police	4.6% (at completion) 6.8% (5 years)
Alarcón Delicado	PRIA-MA	2 years	Judicial (new convictions)	6.3% (gender-based violence) 1.3% (other crimes)

Source: Authors' elaboration based on studies by *CONCHELL et al.*, *PÉREZ RAMÍREZ et al.* and *ALARCÓN DELICADO*.

The results of the above studies reflect very positive data, representing a significant reduction in the recidivism rate of intimate partner aggressors, which is between 20%-30% in general terms (Pérez Ramírez & Martínez García, 2010). According to a meta-analysis by *BABCOCK, GREEN and ROBIE (2004)* intimate partner aggressors in general have an average recidivism rate of 21% according to official data, and 35% if we take information from the victim as a source. *PÉREZ RAMÍREZ, GIMÉNEZ-SALINAS FRAMIS and DE JUAN ESPINOSA (2018, p. 60)* argue that “an effective treatment programme with intimate partner aggressors in the community would expect to obtain a recidivism figure of around 8%, according to official data, (vs. an average of 20% without treatment or with abandonment of treatment)”.

The data and statistics indicated demonstrate the usefulness of intervening in delinquents through the practice of re-educational treatments. The analysis of the effectiveness of intervention programs with abusers shows an adequate implementation of mechanisms aimed at the purposes of Article 25.2 of the Constitution. It is necessary to continue to invest in research that allows the performance and control of policies in the field of re-education and social reintegration to be measured.

## 6 DISCUSSION

The right to re-education and social reintegration is part of the SDGs. A recent teaching innovation project (ID2021/063) entitled “Systematising the alignment of the social action legal clinic with the SDGs” promoted by the University of Salamanca, has reflected the need to address issues such as prison intervention to achieve the Sustainable Development Goals (Torijano Pérez et al., 2022).

The constitutional purposes of Article 25.2 of the Spanish Constitution entail the contribution of prison treatment to the creation of a more just, inclusive and equitable society that offers opportunities for reintegration and generates a commitment to human progress, guaranteeing environmental education, sustainability, prosperity and peace while respecting the environment that surrounds us (Filardo Llamas, 2023). It is therefore possible to channel prison enforcement towards the achievement of the SDGs.

With regard to the fight against gender violence, the study of the resocializing ideal applied in convictions for this type of crime is also configured as a tool that will allow achieving SDG 5 that aims at gender equality and the empowerment of women. Target 5.2 seeks to “eliminate all forms of violence against all women and girls in the public and private spheres,

including trafficking and sexual and other forms of exploitation". The implementation of policies in this area, derived from Article 25.2 of the Spanish Constitution, is the way to improve social coexistence, achieve a fairer society and effective equality between people. In short, the achievement of gender equality is essential to be able to talk about a vision of sustainability and global equity (García Luján Ávila, G. D. S. & Albareda-Tiana, 2024). The 2030 Agenda recognizes that achieving gender equality and the empowerment of women and girls will contribute decisively to the achievement of all other SDG targets (Puri, 2017).

It is essential to be able to recognise that there is a close relationship between many of the SDGs and the purposes of punishment guaranteed by our Constitution. Only through adequate prison intervention, adjusted to these Objectives, will we be able to achieve more effective re-education and social reintegration.

By implementing social action programmes in the prison environment, we can reduce inequalities, facilitate assistance and achieve adequate education for people sentenced to custodial sentences. This will have a very favourable impact on the re-education of inmates, not only because of the theoretical knowledge that many programmes offer, but also because of their natural application. If the detainees live in a healthy environment, free of inequalities, and respectful of *human rights*, they will later be able to face a similar coexistence in freedom, thus achieving their reintegration.

Inclusive models of coexistence must be generated that meet adequate levels of well-being, applicable to convicted persons and to the community that surrounds them. This environment must also become a protective factor, which aims at prevention (Tamayo Gallego et al., 2022). If these standards are achieved, it will be much easier to avoid criminal recidivism and therefore facilitate reintegration. To this end, it is necessary to address the challenges posed from an interdisciplinary perspective that allows the control of the multiple concurrent variables. The role of Criminology is fundamental to begin to work on these models of coexistence.

This paradigm is a reality in practically all geographical areas of the world. In Central America, there is also a lack of actors trained in Criminology to face these new global challenges. Thus, authors point out that the lack of professional incentives and a greater number of criminologists in prisons in Mexico, as well as qualified personnel, plus prison corruption and the constitutional violation of bringing together defendants with convicts does not help the prevention scheme and much less that of social reintegration (Arriola, 2016). It also points to a necessary reorganization of the prison dynamics, in addition to solving the lack of institutional transparency that seriously damages this sector.

Similarly, the section of the Prison Act relating to post-prison care is subject to criticism. It is considered that one of the most important obstacles to reintegration is the absence of real post-prison assistance in the Spanish prison system (Montero Pérez De Tudela, 2019). In our legal system, despite being contemplated in the Law itself, there is no attention to the released person after the completion of the sentence by the prison administration or the administration of justice (Montero Pérez De Tudela, 2018). A lack of institutional support, translated into economic and human resources, which is essential to achieve complete resocialization.

This lack is one of the main lines of action that must be addressed in the future. On the one hand, to offer the aforementioned resources and, for this, an adequate economic endowment must be deployed. On the other hand, the need to translate into positive law policies that help reintegration, through the legislative elaboration of a more detailed section focused on post-prison assistance, which serves as a greater guarantee for the application of these rights.

## 7 CONCLUSIONS

An essential issue when evaluating the application of constitutional principles in our social reality is to determine whether the general will is truly being implemented in the care and treatment of convicted individuals.

The *empirical study* conducted offers encouraging data: it highlights the effectiveness of *re-educational programs* as a tool for *social reintegration*. Scientific evidence shows that a proper intervention process with convicted individuals can reduce recidivism rates. However, it is not enough to interpret the implementation of these policies solely through the analysis of specific data. We must go further. It is insufficient to examine only the recidivism rates or similar parameters. A system that prioritizes *re-education* and *social reintegration* as the purposes of punishment must aim for a comprehensive application of these principles. We must address the wide variety of elements that, as a whole, can offer better oversight and ensure the effective realization of these goals.

Despite the fact that the jurisprudence of the Spanish Constitutional Court does not consider Article 25.2 of the Constitution as a genuine fundamental right, there are many practical implications that do derive from its status as a constitutional principle guiding public policies in criminal and penitentiary matters. This is not only a constitutional mandate but also a global imperative in order to meet the targets set out by the *Sustainable Development Goals*. These *Goals*, established by the United Nations General Assembly and channelled through the 2030 Agenda, include *social inclusion* as one of the key aims to achieve a fairer and more sustainable global development.

We must seek alternatives to a prison model that, in many cases today, proves ineffective. Every form of penal enforcement must pursue at least a minimum level of *resocialisation*. Criminal policy in the area of gender-based violence has shown a willingness to adopt such alternative enforcement models, promoting legislative reforms that support *re-education* based on participation in educational programmes.

The *reintegrative mandate* should not be confined solely to the phase of penal enforcement but must also serve as a safeguard to promote the development of legal frameworks that facilitate *social reintegration*: This entails designing policies that provide the judiciary with the legal tools necessary to apply less harmful alternatives to incarceration, particularly for offenders with strong *reintegration* prospects. Within the application of alternative penal measures, the figure of the Enforcement Delegate plays a central role, being responsible for the supervision and coordination of such measures.

Following the period of penal enforcement, effective *post-penitentiary assistance* must be guaranteed to support the reintegration of former inmates into all areas of society. This requires the development of comprehensive social and employment reintegration policies, with a focus on promoting economic independence and eliminating potential relational barriers.

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