

## The impact of criminal policy on security. Special reference to organised and transnational crime

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**ENG Abstract.** In this article we are going to analyse how organised and transnational crime, which is a flagrant attack on human rights and the breakdown of public order and social peace, forms part of the Sustainable Development Goals and shows that to eradicate it, adequate criminal policies are needed, modern and multidisciplinary criminal policies that do not focus their attention solely on the punitive and retributive sphere of criminal law, but that make use of other disciplines such as sociology, respecting the principle of minimum intervention that must characterise criminal law. We have also looked at the interrelationship and impact of this issue on public safety, starting with criminal policy in Spain and specifically in the field of public safety and public order, taking into account issues such as the territorial factor of crime.

Finally, we have proposed how to approach criminal policy in organised and transnational crime with special reference to the crime of trafficking in human beings.

**Keywords:** : Criminal policy, sustainable development goals, SDGs, criminal law, the principle of minimum intervention, organised and transnational crime, human trafficking, citizen security

**Summary:** 1. Introduction. 2. Citizen security and sustainable development goals. 2.1. SDG number 5: Gender equality. 2.2. SDG number 16: Peace, Justice, and Strong Institutions. 3. Criminal Policy and Security. 3.1. Criminal policy in Spain. 3.2. Criminal policy in the area of citizen security and public order. 3.3. The relevance of the territorial factor of crime. 4. Organised and transnational crime and security. Criminal Policy. Conclusions. Abbreviations. Bibliography.

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## 1. Introduction

The Sustainable Development Goals delimit the course of action and public policies of governments by creating a framework for public policies, specifically in the case of public security policies. Organised and transnational crime is a blatant attack on human rights and the breakdown of public order and social peace, which is why adequate criminal policies are necessary to help eradicate the scourge of terrorism, human trafficking, corruption, and drug and arms trafficking.

In this regard, we highlight the special impact of Sustainable Development Goals 5 and 16, without prejudice to the necessary contribution of the rest.

Modern criminal policies are needed. Ones that do not focus their attention on the punitive and retributive scope of criminal law, but that make use of other disciplines such as sociology. The field of criminal law needs to include a global vision based on the principle of minimum intervention, and shouldn't lose the sense of an adequate execution of sentences that achieves the constitutionally intended purpose, which is social reintegration. Criminal policies that emphasise prevention and involve citizens in a culture of legality typical of advanced states governed by the rule of law are needed. This criminal policy must have a territorial approach that allows a better understanding of the criminal phenomenon and facilitates its prevention through proximity.

We propose the approach of modern criminal policies in the fight against organised and transnational crime, with an emphasis on prevention, prosecution of crime through inter-institutional coordination and international cooperation, and the protection of victims in efforts to provide a victim centred approach to the criminal proceedings.

## 2. Citizen Security and the Sustainable Development Goals

On September 25, 2015, world leaders adopted a set of global goals (Sustainable Development Goals, hereinafter SDGs) at the United Nations, creating a new agenda for sustainable development, the so-called 2030 Agenda. Each of these goals contains specific targets which are planned to be achieved in 15 years<sup>1</sup>. Of these goals, two have a substantial impact on citizen security: Goal 5 on Gender equality and Goal 16 on Peace, Justice, and Strong Institutions; although all of them indirectly contribute to its achievement.

### 2.1. SDG number 5: Gender equality

According to the United Nations, discriminatory laws and social norms continue to be widespread, women are still underrepresented in all levels of political leadership, and with special incidence in terms of citizen security, a shocking number of 1 in 5 women and girls between the ages of 15 to 49 say they have suffered sexual or physical violence at the hands of an intimate partner in 12 months.

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<sup>1</sup> At: <https://www.un.org/sustainabledevelopment/es/objetivos-de-desarrollo-sostenible/>

This goal has an impact on citizen security because we cannot ignore the data provided by the United Nations in this regard: Globally, 750 million women and girls are getting married before 18 and at least 200 million women and girls in 30 countries underwent female genital mutilation (FGM). In 18 countries, husbands of married women can legally prevent them from working; in 39 countries, daughters and sons do not have equal inheritance rights; and in 49 countries no laws that protect women from domestic violence exist. One in five women and girls, including 19% of women and girls aged between 15 to 49, have suffered physical or sexual violence in the last 12 months. However, in 49 countries there are no laws that protect women against such violence specifically. Data that objectify and reflect how violence affects women disproportionately.

The effects of the health crisis resulting from COVID-19 that we are experiencing could reverse the few achievements that have been made in terms of gender equality and women's and girls' rights, since the pandemic aggravates existing inequalities worldwide, which obviously has an impact on health and the economy, but also on other areas such as citizen security.

The pandemic has also led to a big increase in violence against women and girls, and confinement measures have increased intra-family gender-based violence, with many women in confinement finding it difficult to access services that are also suffering from cutbacks and restrictions in many countries<sup>2</sup>.

Among the objectives of this goal is the elimination of all forms of violence against women and girls in the public and private sphere, including sexual trafficking and exploitation, other types of exploitation, and crimes often committed through organised and transnational crime. It also aims to eliminate practices such as child marriage and FGM. For these objectives to have an impact on security, it is necessary to put an end to all forms of discrimination against women and girls, ensure the full and effective participation of women in all spheres, guarantee equal opportunities for women and girls, as well as opportunities for leadership at all levels, especially in political, economic and public life.

## **2.2. SDG number 6: Peace, Justice, and Strong Institutions**

Sustainable development is seriously threatened by conflicts, insecurity, fragile institutions, and limited access to justice.

The number of people fleeing from wars, persecution, and conflicts exceeded 70 million in 2018, the highest number registered yet by the Office of the United Nations High Commissioner for Refugees (UNHCR) in almost 70 years.

At the centre of all debates must be an insurmountable and unquestionable minimum: human rights; the people and their rights as the centre of the debate. And all responses on behalf of the public authorities to all situations, and especially to situations like the current health crisis, must protect human rights and the rule of law.

The United Nations points out that among the institutions most affected by corruption are the judiciary and the police, which are of unquestionable importance for public security, hence the importance of the need for solid institutions.

Among the objectives of this goal is the significant reduction of all forms of violence, and putting an end to abuse, exploitation, trafficking, and all forms of violence and torture, by promoting the rule of law and guaranteeing access to justice and equality, by creating effective and transparent institutions. We must be able to prevent violence and fight terrorism and crime, by promoting and implementing laws and policies that are non-discriminatory and in favour of sustainable development<sup>3</sup>.

We must implement comprehensive policies, and as far as crime is concerned, we need adequate criminal policies, with an emphasis on prevention, and with a territorial approach, which would obviously have an impact on the construction of peaceful and inclusive societies,

<sup>2</sup> At: [https://www.un.org/sites/un2.un.org/files/policy\\_brief\\_on\\_covid\\_impact\\_on\\_women\\_9\\_april\\_2020.pdf](https://www.un.org/sites/un2.un.org/files/policy_brief_on_covid_impact_on_women_9_april_2020.pdf)

<sup>3</sup> At: <https://www.un.org/sustainabledevelopment/es/peace-justice/>

seeking to reduce all forms of violence. We must break the cycles of exclusion and violence, in favour of establishing positive synergies of peace and development as a counterpart developing early warning systems, thus requiring infrastructures of peace, for which it is absolutely essential to approach from a territorial perspective, promoting social cohesion and inclusive participation in society.

Strengthening the rule of law and national capacities to combat violence, terrorism, and other forms of organised and transnational crime (trafficking in persons, drugs, and arms), promoting human rights and equality, and in short, peace, security and development would be the objectives to be achieved.

### 3. Criminal policy and security

Article 10\*5<sup>4</sup> the Spanish Constitution defines the foundations of political order and social peace, a *sine qua non* requirement for the model of peaceful and orderly coexistence that we seek and that SDG 16 sets out for us. The foundations are human dignity, the inviolable rights that are inherent to the individual, the free development of the personality, the respect for the law, and the rights of others. In short, an inclusive society that respects fundamental rights.

There will be social peace and political order in secure societies, and these require an adequate criminal policy to achieve this longed-for security.

A policy is how the government manages public affairs. Criminal policy transforms the criminological experience into options and strategies that can be used by the public authorities with the immediate aim of preventing and repressing crime, as well as protecting and recovering its victims, following Franz von Liszt: "Social policy is presented as the best and most effective criminal policy". I share this opinion, although the Spanish situation has not followed this line.

#### 3.1. Criminal policy in Spain

It can be said unequivocally that the role of criminal policy has been transformed. On the one hand, it has become more politicised and more open to public opinion; on the other hand, it has moved away from a treatment centred on the criminality and the person of the offender, a treatment formerly conferred on experts in criminal and criminological sciences. Criminal policy has become, so to speak, more expressive, more direct, more emotional, being conceived today as an instrument designed not only to produce a greater sense of security in the population but also -why to deny it- to win elections when the time comes (Caño Paños, 2004).

Regarding Spanish criminal policy, we are witnessing a permanent process of substantive reforms, which, in many cases, follow opposing trends, so it can properly be said that it is a process of reforms and counter-reforms. One reflection of this is that the legislator himself is obliged to acknowledge that one of the reasons for the main reform of the Penal Code (2010) is the "effects of distortion or inconsistency" generated by "the numerous and sometimes accelerated changes introduced in the original architecture of the 1995 text" (road safety, drugs or crimes related to the intellectual and industrial property are only the most striking examples of this contradictory critical policy)<sup>5</sup>.

The prevailing trend is to systematically increase the penalties and create new typical figures. This criminalising tendency does not seem to be caused by criminological reports that advise acting in this direction or, conversely, that prove a posteriori that the increase in criminal rigour has had positive effects in reducing criminality (Cuerda Arnau, 2013). Criminal reforms can often only be explained as the result of the instrumentalization of criminal law by the legislator himself and by the media. Since OL 10/1995 was approved, the PC has undergone more than twenty reforms. Meanwhile, we are still waiting for the essential reform of our criminal procedure. Both things speak for themselves.

<sup>4</sup> Art. 10.1 of the Spanish Constitution: "The human dignity, the inviolable and inherent rights, the free development of the personality, the respect for the law and for the rights of others are the foundation of political order and social peace."

<sup>5</sup> Exposition of motives of the OL 5/2010, 22 of June of the reform of the Penal Code

### 3.2. Criminal policy in the area of citizen security and public order

The Criminal Policy Study Group (2004) (Grupo de Estudios de Política Criminal in Spanish), wrote a manifesto at a reunion held in Bilbao on the 15th and 16th of April 2016 in which they repeated their position, whose exposition seems to me very interesting and clarifying:

"1. In democratic societies, the concept of public order must be linked to the exercise of fundamental rights and liberties, since the existence of these constitutes the presupposition of the political organisation itself. Consequently, a new criminal policy in matters of public order should outlaw the classification of criminal and administrative offenses that punish the legitimate exercise of fundamental rights, and prevent such classification, due to the vagueness and amplitude of the wording or the lack of proportion of the sanctions, from generating the disincentive effect that has been outlawed by the Constitutional Court and the European Court of Human Rights. The reform of the Criminal Code and the Law on Citizen Security of 2015 and the municipal ordinances of recent years have expanded the criminal and administrative offenses that affect the use of public space. In this way, a series of behaviours that were once considered legitimate, some even proper to the exercise of fundamental rights, are repressed with an expansionist capacity never seen before in the democratic stage, overcoming the guarantees that we have agreed upon since the configuration of the democratic state and the rule of law. Precisely in times of greater social conflict, as a consequence of the cuts in social rights, a series of punitive, criminal, and administrative regulations have been enacted that discourage citizens from exercising public freedoms and do not seem to leave a single act of social protest unpunished, while ignoring basic principles of the rule of law such as legality (taxation), prohibition of arbitrariness, proportionality, guilt, the presumption of innocence and rights of defence. The concept of public order thus becomes a notion capable of justifying an expansive and uncertain punitive power, with broad discretion on the part of the authorities, consecrating the maxim of this neoliberal era: a liberal system in the economic sphere, but highly interventionist in the social sphere. The legislator transforms the concept of public order into public peace, privileging authority, in a continuum of prohibited behaviours, in which there is little room for freedom. Therefore, it is a notion of public order and citizen security that is very close to the recognition of the city as a space not for the public but for a few only. This, moreover, shows a political interest in constructing not social actors, but submissive citizens (many infractions are mere disobediences) and legitimised exclusion of problematic sectors from public space under an authoritarian understanding of the notion of citizenship, which is why these norms should be reformed as soon as possible. An alternative criminal policy proposal regarding the use of public space should be based on maximising the exercise of individual rights and respecting the fundamental principles of *ius puniendi*. (...)"

As we see, it follows the line of Von Liszt, who defends social policy as the best criminal policy, and even more so when it comes to achieving SDG 16.

Every nation, understood as a geographical and political unit governed by a specific statal structure, in our case also territorial, needs to establish proactively and permanently, ways and methods to be used to confront the criminal phenomenon (Gonzalez and Perez, 2016). In this way, criminal policy can be interpreted as the organised socio-statal reaction to crime. In this sense, it is useful to use the means, forms, organisms, structures, etc., that conceive and apply this Criminal Policy. If we link the term Criminal Policy only to approaches and evaluations of Criminal Law, we will form a sectorized legal vision predefined by the content and framework of action of criminal justice<sup>6</sup>.

Bustos Ramirez (1996), an author who supports a broad vision of the category under study, asserts that *"criminal policy is the power to define criminal processes within society and, therefore, to direct and organise the social system about the criminal issue"* (Bustos Ramirez,

<sup>6</sup> About the diversity of approaches to the study of Criminal Policy see: Cid Moliné, J. y Larrauri Pijoan, E., *Teorías criminológicas*. Editorial Bosch, S. A. 2001. Barcelona, pp. 29-31 and especially note 35; Betistain Ipiña, A., *Hoy y mañana de la política criminal protectora y promotora de los valores humanos. (La paz desde la victimología)*. In: Cuadernos de Derecho Judicial. Volumen IX, *Política Criminal comparada, hoy y mañana*. Edited by Consejo General del Poder Judicial. 1998. Madrid, pp. 3-19.

1996), an integral perspective of criminal policy suggests using the concept as the socio-state reaction to criminality, as the various forms of response developed by the state and civil society against the criminal phenomenon. Criminal policy from a criminological perspective has a much broader meaning: it includes legal-criminal policies but also other social policies that have relevance for prevention and intervention in the criminal phenomenon (Barberet Havican, 1999).

The basic principles of criminal policy aim to guarantee anti-criminal structural transformations of general effect (Social Policy) on the one hand, and on the other, to guarantee resocializing correctives of questionable and limited personalised results (penal policy).

In this way and conclusion, the most effective criminal policy is always the one that prevents the occurrence of crime. The establishment of synergies between different sciences like penal law and sociology can suppose the elimination or neutralisation of the basic causes of crime and contribute effectively and efficiently to security.

De la Cruz Ochoa (2001: 22-23) says that:

“surely there are more effective means than punishment. In the first place, a social policy aimed at reducing existing social differences and modifying the social system (...) The majority of crime in all parts of the world comes from disadvantaged backgrounds, and whoever does not want to have to punish poverty must therefore strive to eliminate it progressively through a genuinely democratic social policy. This is the fundamental answer that democracies must give to the increase of crime, and not that of those who think that democracy should come to tighten the levers of criminal repression to restore citizen security.”

Here we see the important role that the SDG, the end of poverty, would also play in his case and its intimate relationship with citizen security.

In short, the close linkage between social policy and penal policy defines criminal policy as the socio-state strategy for the prevention of criminal behaviour.

The criminal policy must respond to the need for security in complex, open, and pluralistic societies: When trying to outline an acceptable political-criminal strategy for the protection of the security, the first stumbling block is the opposition between security and freedom, and here the constitutional principle of proportionality would come into play, not forgetting that the scope of intervention of criminal law, by its basic principles, must be the last resort.

Paredes Castañón (2006: 132) argues that “liberal criminal policy is committed to the political objective of security in another sense when it focuses on the intensive use (in the best of cases, but not always, with extrinsic limits: in rights) of repressive power - not only that of the State - to reduce to the minimum possible number and entity of the infractions that affect legal goods. In this way, Thus, alongside a restrictive penal legislative policy (based on the requirement of harm), an extremely repressive police policy, a penological policy, and a penitentiary policy can coexist, extremely interventionist in the sphere of individual freedom: but only of certain groups and classes of individuals, the dangerous ones (those who, precisely, are considered incapable of sufficiently controlling themselves and of sufficiently accepting external control by the social powers)”.

Therefore, in the model of criminal policy that I propose, I believe that these issues should be addressed and brought together. We must not lose sight of the constitutional principle of proportionality and that criminal law should truly be the last resort, respect the principle of minimum intervention, i.e., intervene in the most serious attacks on legal assets (which is not in doubt in the case of organised or transnational crime, since no one questions that terrorism and human trafficking are blatant attacks on human rights and drug or arms trafficking also have an impact on them) and we advocate an approach to criminal policy that is both social and penal. The main emphasis should be on crime prevention, and here we advocate data monitoring, an issue to which I will devote myself later, and which takes up the sociological aspect mentioned above. We are committed to a policy model of security protection for crime prevention, thus avoiding through its intervention these behaviours, reducing as much as

possible the number of typical behaviours actually committed: minimization of the probability of committing criminal offences, which doesn't mean a police action that restricts fundamental rights but a preventive police action that is based on the gathering of information (person, history, places) stored by privacy legislation (i. e., giving importance and means to police intelligence) together with police presence in certain places to disincentivize the commission of offences: a more proactive police action in the area of crime prevention. A proportional criminal law that protects the attacks on the fundamental rights of citizens with an adequate penitentiary policy, focused on the constitutional purposes: social reintegration, which will respond to the general and special prevention of crime, as well as to the prevention of other future crimes, providing the importance that the execution of sentences requires: let us not forget the special preventive purposes that they entail. The resocializing effect is of utmost importance in organised and transnational crime, and the territorial factor of crime is also of utmost importance for its impact on security.

### **3.3. The relevance of the territorial factor of crime**

The participation of territorial entities in the management of public safety has a precise impact on the achievement of this public safety.

More and more cities around the world have implemented different programs managed in the local environment and aimed at crime prevention initiatives that, based on different ideological or technical positions, seek to improve living conditions in the urban spaces occupied by their inhabitants (Ruiz Rodríguez, 2010).

Municipal entities are positioned as direct managers of criminal policy in their territory and not as mere collaborators of purely criminal institutions. Proof of this is the development of programs and actions related to crime at the local level, which arise as a necessity to solve specific problems that reach a certain level of notoriety, whether real or mediatic.

To guarantee public safety, local councils use their resources, ranging from social protection services to local police forces, which act as real police forces to intervene against crime, based on the advantage of the principle of proximity policing.

The preventive response to urban safety in Anglo-Saxon countries differs significantly from that in other continental European countries, although we can currently observe the coexistence in time and space of municipal programs that pay tribute to a preventive model. We often observe in the management of safety in big cities ambitious victim protection programs, that are closer to situational prevention, through educational action programs with young people that are in danger of offending, and that are derived from the theories of social prevention, which is having a satisfactory impact on public safety.

Therefore, it is wise to contemplate the territorial approach in criminal policy, and in this closer channel to involve citizens in crime prevention.

## **4. Organised and transnational crime and security. Criminal policy**

The organised transnational crime challenges the security of all democratic countries. It is a form of criminality that requires the study of interdisciplinary, interprofessional, and international research teams to develop meaningful and capable proposals to deal professionally and effectively with this global scourge.

The supra-state multi-criminal organisations that operate based on international crime networks, operating within international crime networks cover a repertoire of activities that include a very wide range of crimes, all of them with a fundamentally economic purpose. The tendency to diversify and connect criminal markets is due to the desire to maximise the profits to be made.

Unquestionably, this type of crime is in many cases - especially in terrorism and human trafficking- a blatant attack on the fundamental rights of individuals, a direct attack; while indirectly other forms of organised crime- corruption, drugs and arms traffic, cybercrime, money



laundering - - are also an attack on human rights, forms in which criminals are willing to use people as instruments for the pursuit of their criminal ends (especially in the case of terrorism and trafficking in human beings), forms in which criminals are willing to use people as instruments for the pursuit of their criminal ends (especially in the case of terrorism), drugs and arms trafficking, cybercrime, money laundering - forms in which criminals are willing to use people as instruments for the pursuit of their (primarily profit-driven) criminal ends, stripping human dignity and other rights from all persons who may stand in the way of their actions.

Data monitoring becomes highly necessary in this type of crime, which allows us to adopt an adequate criminal policy, so states should pay attention to this respect. An example can be Spain's criminal policy in the fight against human trafficking.

In order to be able to develop a quantitative analysis of the matter in our country, we rely on the data provided by the Immigration Unit of the State Attorney General's Office, the Intelligence Centre for Terrorism and Organised Crime (hereinafter CITCO), and the Government Delegation for Gender Violence, institutions that issue an annual report. The data provided by the Public Prosecutor's Office is based on the number of follow-up proceedings for the crime of trafficking in human beings in a given year carried out by its unit, and these proceedings are based on the reports initiated by the Guardia Civil, National Police, regional police and investigation proceedings by delegate prosecutors responsible for immigration. It should be clarified that the opening of Follow-up Proceedings by the Immigration Unit takes place when the prosecutors consider that there is sufficient evidence of the commission of conducts typified in article 177 bis of the Penal Code. CITCO analyses data provided by the State Security Forces and Bodies as a result of their criminal and administrative investigations, providing the data that, according to police activity, has been considered to indicate that there is evidence of criminality for the crime of trafficking in human beings. For its part, the Government Delegation for Gender Violence issues an annual statistical bulletin, which contains a section on the fight against the trafficking in women and girls for sexual exploitation, where it indicates in its methodology that it obtains its data from three sources: First, data collected by the Government Delegation for Gender Violence on assistance provided to women and girls who are victims of trafficking for the purpose of sexual exploitation, based on questionnaires sent to the Government Delegation for Gender Violence by entities responsible for assisting victims of trafficking for the purpose of sexual exploitation<sup>7</sup>. Secondly, information from the Intelligence Center against Terrorism and Organized Crime (Ministry of the Interior) on the prevention and fight against trafficking in human beings for the purpose of sexual exploitation and sexual exploitation is included, and finally, data provided by the Alien Prosecutor of the State Attorney General's Office in relation to the crime of trafficking for the purpose of sexual exploitation is presented. As already mentioned, these reports are annual and are usually published by the end of the following year.

These data offers information on the victims segregated by sex, nationality, the existence of a criminal organisation or its modus operandi, as well as information on the victims also segregated by gender, nationality, and concerning their vulnerability. This provides us with valuable data from which to nurture police intelligence - that is so useful in the prevention and prosecution of these criminal modalities - and with the knowledge to adopt adequate criminal policies both in countries of origin and countries of destination, policies that are based on the prevention and not only (but also) persecution, and obviously all this in victim-centred systems that do not lose sight of the protection of the victims. Here we have found other pillars of criminal policy in organised and transnational crime: inter-institutional cooperation and international cooperation.

Inter-institutional cooperation in human trafficking has been discussed by its reflection in the 2011 framework protocol on trafficking, signed by the Ministries of Justice, Interior, Employment and Social Security, the Ministry of Health, Social Services and Equality, the Attorney General's Office and the General Council of the Judiciary: a multidisciplinary approach that coordinates all legal and social operators involved in the fight against this human rights scourge.

International cooperation is backed by UNODC, as we shouldn't forget that it was within the

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<sup>7</sup> The information provided by the entities benefiting from subsidies, refers to the overall care provided to victims of trafficking for sexual exploitation and potential victims, not only to the assistance provided with DGVG funding. However, these entities do not constitute the totality of those in Spain that may be susceptible to assisting a victim of trafficking, although they make up the most significant group of entities in the field, so the information provided shows quite rigorously the real existing situation.



United Nations that the Convention against Transnational Organized Crime<sup>8</sup> was signed within the United Nations, and its annexes include the Palermo Protocol. Within the European Union, the Convention of Warsaw<sup>9</sup> was signed. These are extremely useful and necessary instruments in organised and transnational crime that coordinate efforts in the fight against this criminal phenomenon, without prejudice to other international, regional or bilateral instruments that may be implemented by the states.

To this must be added effective judicial and police cooperation mechanisms, and the importance of these institutions, through the appropriate training of their operators, which is in line with SDG 16, solid and therefore effective institutions. For example, following on from human trafficking, the preparation by the CGPJ of a criteria guide for action against human trafficking, a very useful tool at the service of judges, which summarises the current state of affairs and jurisprudence. It is also worth highlighting the important work of the Immigration Affairs Unit of the State Attorney General's Office, which reports all the data on prosecutions in Spain. Likewise, Instruction 1/2016 of the Secretary of State for Security was issued, on the actions of the state security forces and bodies in the fight against human trafficking and collaboration with organisations and entities with proven experience in assisting victims.

As we have said, sociology and education play a particularly important role in the field of prevention and in crime policy. The UNODC initiative within the Doha Declaration<sup>10</sup> seems to me to be a very good example in this respect, which promotes a culture of legality, "Education for Justice" which aims to prevent crime and promote a culture of legality through educational tools and resources designed for the different levels of education, primary, secondary, and tertiary. These resources help educators to teach the next generations how to better understand and address problems that can undermine the rule of law: to involve citizens in crime prevention by creating a culture of legality.

Finally, an attempt by the Spanish legislator to adopt a criminal policy against organised crime and serious crime is the National Strategy against Organised Crime and Serious Crime, approved recently (February 22, 2019)<sup>11</sup>. It is a national strategy that covers the period between 2019 and 2023, which is based on a comprehensive vision that involves all legal operators of security, both external and internal of nations. It is based on guiding principles such as unity of action, anticipation, efficiency and resilience, aiming to be an element of prevention and to establish proactive and dissuasive public security policies, with the promotion of proactive actions and strategic and operational intelligence. It establishes different core and transversal axes to provide a global response to these complex criminal phenomena, including the prevention through intelligence, the neutralisation of organised crime economy by focusing on the investigation of the economic structure, fighting against criminal markets, and linking organised crime and terrorism, seeking international cooperation and coordination, training, and capacity development of legal security operator. The lines of action, it specifies them by distinguishing the type of crime. It is an extremely useful tool and in line with what we have been outlining in this work, although it lacks a fundamental point of prevention, which is to involve citizens in crime prevention, creating through education a culture of legality that distances us from authoritarian welfare, which is necessary for modern states governed by law, democratically speaking, healthy and respectful of the rights and freedoms of their citizens.

## Conclusions

If we are to establish an adequate criminal policy in the fight against organised and transnational crime that results in the achievement of citizen security, we must start from an integral perspective of criminal policy, which includes not only legal-criminal policies but also social policies that are relevant to crime prevention, establishing synergies between criminal law and sociology, taking into account the currently open and plural societies. We must take advantage of the territorial structure of our state to provide a territorial approach to crime policy and thus take advantage of the Spanish police model, which includes community policing among its security forces. Adequate data collection is important to enable us to monitor the

<sup>8</sup> New York, November 15, 2000, ratified by Spain in 2003 (OSG September 29, 2003)

<sup>9</sup> Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, May 16, 2005, ratified by Spain in 2009, BOE September 10, 2009

<sup>10</sup> Adopted within UNODC in Doha, April 2015 on crime prevention and criminal justice.

<sup>11</sup> Order PCI/161/2019, of February 21, approving the Agreement of the National Security Council, approving the National Strategy against Organised Crime and Serious Crime, BOE of February 22, 2019.

phenomenon of crime, to know the perpetrators, victims, where they come from, and their modus operandi in order to create police intelligence at the service of crime prevention. Training and capacity development of all operators that intervene in the fight against crime results in its early detection, which can be another way of preventing future criminal offences and improving the prosecution of such offences. The pillars of these policies are also inter-institutional cooperation, through protocols for action and the promotion of working groups with territorialised approaches, as well as international cooperation, promoting police, prosecutorial and judicial networks that streamline and make international cooperation in the fight against this crime more efficient. All of this in addition to the involvement of citizens in the fight against crime, but not from a repressive point of view, but by using the most powerful tool that we have to transform society: education, creating a culture of legality typical of the rule of law in democratically advanced societies.

Perhaps some of these forms of organised and transnational crime require more comprehensive legal instruments to effectively combat them, as would be the case with trafficking in human beings. In my opinion, a comprehensive anti-trafficking law that addresses the prevention criminal persecution and victims' protection in the same body of law, would have a very positive effect and would be a very appropriate criminal policy, and would respond to the needs of public order and social peace by avoiding the stripping of human dignity that this behaviour entails. By this I do not mean that I believe that every criminal phenomenon requires its comprehensive law, but in certain more complex crimes such as trafficking in persons or terrorism.

## Abbreviations

UNHCR: United Nations High Commission for Refugees  
 CGPJ: General Council of the Judiciary  
 CITCO: Terrorism and Organized Crime Intelligence Center  
 FGM: Female Genital Mutilation  
 OL: Organic Law  
 SDGs: Sustainable Development Goals  
 PC: Penal Code  
 UNODC: United Nations Office on Drugs and Crime

## Bibliography:

- Barbarete Havican, R. (1999). "La investigación criminológica y la política criminal", Cuadernos de Derecho Judicial, 5: 221-244.
- Beristain Ipiña, A. (1998), "Hoy y mañana de la política criminal protectora y promotora de los valores humanos. (La paz desde la victimología)", Cuadernos de Derecho Judicial, 9: 9-86.
- Bustos Ramirez, J. (1996). "Política criminal y Estado", Revista de la Asociación de Ciencias Penales de Costa Rica, 8 (12): 10.
- Cano Paños, M.A (2004). "La acusación particular en el proceso de menores. ¿La represión como alternativa?", Revista del Poder Judicial, 76: 247-282.
- Caid Moliné, J. and Larrauri Pijoan, E. (2001). Teorías criminológicas. Barcelona: Editorial Bosch, S. A.
- Cuerda Arnau, M.L (2013). "La expansión del Derecho Penal versus la eficacia del modelo de justicia", Revista Cuadernos Digitales de Formación, 5: 1-15.
- De la Cruz Ochoa, R. (2001), "Control social y Derecho Penal", Revista Cubana de Derecho, 17: 1-20
- González Rodríguez, M. and Pérez Nájera, C. (2016). "La política criminal y la seguridad ciudadana en Latinoamérica: Apreciaciones actuales", 3(10): 1-24.
- Ruiz Rodríguez, L.R. (2010). "La gestión urbana de la seguridad: política criminal y municipios" en Revista Electrónica de Ciencia Penal y Criminología, 09: 1-25.