



RIMES: An Instrument to Compare National Criminal Justice Policies from the Social Exclusion Dimension

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Abstract

This paper presents a validated tool for comparing national crime control systems in accordance to the social exclusion they generate on those groups prone to enter into conflict with the criminal law. We first explained why we have chosen social exclusion as guiding principle for comparing national criminal policies, instead of other more usual criteria like punitiveness. Then we describe objectives, methodology, development and final configuration of the comparative instrument, called RIMES. The instrument comprises 39 indicators made up of current punitive rules and practices concerning nine relevant fields of penal intervention. It is able to measure in a comprehensive manner the social exclusion caused on suspects, defendants, offenders and ex-offenders by crime control systems of diverse Western industrialized countries, in such a way that it makes possible to proceed to comparisons among the different countries. The tool was submitted to a double process of validation by inter-judge agreement, where about 100 well-known international experts from 18 Western developed countries took part. Last goal is to make available a reliable instrument for interpreting current criminal justice policy and fostering grounded criminal policy decisions.

Keywords: *Comparative criminal policy, instrument for comparative measurement, social exclusion, RIMES instrument.*

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1. Introduction

The current comparative criminal justice policy shows a strong tendency to compare different national crime control systems according to their higher or lower level of punitiveness. This analytical approach is based on an undisputed premise: Every crime control system should have as one of its primary goals to ensure that those entering into conflict with criminal law would suffer a moderate affliction because of their offending or suspicious behavior (Hinds, 2005; Cavadino & Dignan, 2006; Downes & Hansen, 2006; Tonry, 2007; Lappi-Seppälä, 2008, Larrauri, 2009).

However, using the level of punitiveness achieved by the respective crime control systems as guiding principle for the comparative analyses of criminal justice policy has a number of theoretical and methodological shortcomings.

Among the former, it should be noted that the goal of punitive moderation places itself in a scant ideological context. It represents a *humanitarian* approach to criminal policy, which would be recognized to the extent that it guaranteed that the severity of criminal sanctions do not exceed a certain limit, regardless of whether the set of criminal policy goals pursued and the criminal justice model adopted to achieve them are correct.

Among the methodological shortcomings, it is highlighted that -even if such approach is accepted-, it uses exceedingly limited indicators of punitive moderation: In fact, almost all comparisons are built, basically, around the incarceration rate per 100,000 inhabitants. Indeed, this indicator has many virtues: It is easily accessible from various reliable sources, it focuses on one of the most severe sanctions that a criminal law system may impose, and it provides a good example of the set of punitive policies and practices of a particular criminal justice system. Nevertheless, the fact of focusing the evaluation of the punitiveness of a criminal justice system on the use of imprisonment marginalizes other indicators with a strong capacity for expression, such as, for example: the number of criminal proceedings that end in conviction or the average length of imposed sentences. Moreover, the intensity in the use of imprisonment also depends on, for instance, the number of admissions to prison, the average stay in prison or the confinements outside the penal system (Balvig, 2004; Brodeur, 2007; Webster & Doob, 2007; Roché, 2007; Snacken, 2007; Zaffaroni, 2007; Pratt, 2008; Nelken, 2010; Author, 2011, 2013).

The proposal described in this article advocates for an international criminal policy comparison based on a more enriched and comprehensive approach, using an organized diversity of indicators. This does not mean that the goal of punitive moderation, or the indicator measuring it, should be discarded.

2. Theoretical model

The theoretical model adopted to design this research is based on the one presented by author (2011, 2013) and chooses as comparison element the level to which the different crime control systems minimize the social exclusion of those coming into conflict with the criminal law.

The aforementioned theoretical model does not refer to the effects of the crime control system on the overall population. It confines itself to those individuals and groups who are priority targets of criminal prevention and prosecution bodies, namely those who have been, are or are likely to be subjected to crime control as suspects, defendants, offenders or ex-offenders.

The search for either social exclusion or social inclusion of those individuals prone to enter into conflict with criminal law reflects two contrasting approaches to the criminal policy goal of preventing crime. The socially exclusionary approach is essentially aimed at achieving the incapacitation of the groups referred to, which implies ensuring that suspects, defendants, offenders or ex-offenders -after their contact with penal institutions-, find themselves in individual and social conditions where it will be more difficult for them to break the law or to avoid being discovered. Conversely, the social inclusive approach seeks, above all, the social reintegration of those groups; so that suspects, defendants, offenders or ex-offenders -after their contact with penal institutions- find themselves in the same or better individual and social conditions in order to voluntarily lead a law-abiding life.

Consequently, the different national crime control systems would have to be evaluated according to the greater or lesser adherence of their penal intervention models to either of the two approaches. Our research intends, more modestly, to measure the longer or shorter distance of the diverse crime control systems with respect to a strict socially exclusionary approach.

Two assumptions underlie this analytic model: First, generating or strengthening the social exclusion of the mentioned groups by the criminal prosecution bodies leads to more crime in the mid- and long-term. Second, achieving a significant level of social inclusion of those groups reduces crime in the mid- and long-term. Both assumptions are pending empirical demonstration and this research does not consider them as hypothesis to be verified. The intention is to design and, subsequently, implement, an instrument for international comparison (the RIMES instrument) that affords to classify national crime control systems in accordance with their socially exclusionary effects, in line with that theoretical model described. It would provide the basis to prove in the future the correctness, or not, of the assumptions above.

This instrument, which would turn operational the theoretical model, must consist of a set of indicators allowing for the measuring of the level to which the different national criminal justice systems produce socially exclusionary effects on the referred groups. Such indicators must have the following features:

They must refer to actual punitive rules and practices, that is, those that are effectively applied in Western developed countries. For that matter, a punitive rule is understood as a legal standard usually, although not always, included in the criminal law system, setting forth certain consequences against certain behaviours or situations related to crime control. A punitive practice means the way in which different social agencies effectively react against behaviours or situations related to crime control, in accordance or not with the provisions laid down by the law. The fact that the contents of certain chosen rules and practices may overlap would have to be taken into consideration when configuring the instrument.

In order to design the instrument, the primary criterion to select the punitive rules and practices was their solid capability to measure significant socially exclusionary effects on the groups of the study. In no case, it is intended to identify punitive rules and practices measuring the production of relevant social inclusion effects on the mentioned groups.

The chosen set of indicators would reflect in a comprehensive manner the reality of the criminal policy model in their respective countries, as concerns their socially exclusionary effects on the groups under study. In this regard, the theoretical model of author (2011, 2013) identifies nine major areas of penal intervention especially adequate to reveal relevant exclusionary effects that, as a whole, offer a comprehensive picture of the corresponding criminal justice system. The nine areas or pools are control of public spaces, legal safeguards, sentencing and sanction systems, harshest penalties, prison rules, preventive intervention, legal and social status of offenders and ex-offenders, police and criminal records and youth criminal justice. These nine pools of punitive rules and practices may be divided into a total of 25 subgroups or bundles². Therefore, all the

² Which are the following: Control of public spaces (gated communities, video surveillance, restriction of access to public spaces). Legal safeguards (undermining of due process safeguards, hindering or restriction of legal remedies). Sentencing and sanction systems (judicial discretion, aggravated provisions for recidivists, extensive use of prison, community sanctions, electronic monitoring). Harshest penalties (death penalty, life imprisonment, long-term prison sentences). Prison rules (living conditions in prison, respect for prisoners' rights, release on parole). Preventive intervention (pre-trial detention, indefinite preventive detention). Legal and social status of offenders and ex-offenders (disenfranchisement, deprivation of further civil rights, accessibility to social resources). Police and criminal records (extension and accessibility of records, community notifications). Youth criminal justice (age thresholds, treatment differentiated from adults).



indicators to be part of the instrument must be incorporated into one of these pools and bundles.

The indicators eventually chosen should have discriminating capacity, for example, they should show relevant variations among the different criminal justice systems in the Western developed countries.

The instrument would be built on the agreement existing among leading experts from different Western developed countries that the punitive rules and practices selected produce significant social exclusion on any of the following groups: suspects, defendants, offenders and ex-offenders. The intention was not to verify empirically that such punitive rules or practices effectively generate social exclusion. Such verification was replaced here by its validation through a broad consensus of experts.

Once the RIMES instrument is ready, it would be implemented in Western developed countries. When results from a significant number of countries were available, comparisons among the diverse national criminal policy models in force would be carried out from a highly significant dimension: the social exclusion they generate in groups especially affected by criminal intervention. Among other actions, the countries would be placed on a scale measuring their scoring from the set of the instrument's indicators or the indicators grouped by pools. The data obtained would be useful to know and explain contemporary criminal policies, as well as to take informed criminal policy decisions.

3. Objectives

The aim of this research project was to make operational the above mentioned theoretical model through the design, development and implementation of an instrument capable of measuring, in comparative terms, the social exclusion generated on suspects, defendants, offenders and ex-offenders by the current crime control systems of Western developed countries.

The research had the following specific objectives:

1. To identify a set of punitive rules and practices that generate social exclusion, which are also suitable to be part of the instrument for comparative measurement.
2. To validate the rules and practices based on the previous selection, using a qualitative and quantitative method of content validation by inter-judge agreement that implies the collaboration of numerous international experts. Such validation process should probably reduce the number of surviving punitive rules and practices, from which, on the basis of additional operational criteria, should be selected those that would be configured as indicators in the final RIMES instrument for comparative measurement.

4. Development of the RIMES instrument for comparative measurement³

The development and validation of the RIMES instrument had been performed following a qualitative methodological strategy through the Delphi method (Cruz, 2009) and the technique of content validation by judgment of experts (Escobar-Pérez & Cuervo-Martínez, 2008; Cabera & Barroso, 2013). This methodology was chosen because it was deemed the most suitable to reach a consensus on the content and the validity of the instrument by way of a systematic, formal and thorough process. This is the recommended approach when there is not enough information available to take decisions (Reguant-Álvarez & Torrado-Fonseca, 2016).

For the previous selection of punitive rules and practices, most members of the Criminal Law Department and the Institute of Criminology from the University of Malaga made up the group of experts. The Delphi method was applied to them in order to check their level of expertise in the topics to be addressed. The results were satisfactory since the majority of the group included a sufficient number of persons with a PhD who were deemed experts in more than one pool. This allowed covering the whole range of knowledge required.

In achieving the proper RIMES instrument, the judgment of experts was applied for its validation. 97 international experts from 18 different countries participated in the process.

The procedures carried out to select items, to choose the experts and to validate the instrument are described below.

4.1. First phase. Initial formulation of the instrument

Between March and December 2013, a research team -made up by 19 experts in criminal policy, penal law or criminology belonging to the University of Malaga performed the works to identify a set of punitive rules and practices that they considered produce greater effects of social exclusion on the target groups described according to the theoretical model of author.

The team members were distributed in the nine thematic pools according to their fields of expertise and with the aim of striking a balance between more and less experienced members. Two or three persons were in charge of each pool, with some experts participating in more than one. A coordination team was responsible for answering any possible methodological queries and for the management of the process.

³ The datasets generated during and/or analysed during the current study are available from the corresponding author on reasonable request.

Among the instructions given were those referring to the features that the items to be identified must have, which were already listed in the theoretical framework. The following characteristics must also be added:

1. The punitive rules and practices had always to be formulated in a positive way, in other words, expressing their socially exclusionary potential, and only a dichotomous reply ("Yes" or "No") had to be admitted.
2. An acceptable balance between rules and practices had to be sought.
3. An effort had to be made for identifying rules and practices able to be distributed in similar numbers among the different pools of the theoretical model inspiring the research.
4. At the time of selecting the punitive rules and practices, data on compared criminal justice policy must be taken into consideration.
5. The Spanish or English language could be used in the initial working documents. However, it should be noted that the instrument to be validated later must be written in English, and the only valid version had to be the English one.

Each of the nine research groups would only submit to the whole research team those rules and practices that reached consensus within the group.

Throughout this period, the members of each group held many meetings and frequently consulted the coordinating team. Gradually, as the work of each group was finished, 18 meetings were held with the whole research team where a critical review was carried out regarding the rules and practices proposed by each group, and those that were approved through the assent of the entire team were finally selected. The *result* of such work was the identification of 278 punitive rules and practices, distributed among the nine pools.

As of that first selection, the members of the coordinating team then performed a detailed analysis of such rules and practices, in order to verify content overlapping, either total or partial, among the rules and practices of the same pool or located in several pools. This resulted in a first reduction in the number of items (rules and practices) of the instrument being developed, up to 250 items in total.

Subsequently, in February 2014, the four members of the coordinating team agreed to examine each item against three criteria consistent with the theoretical and methodological premises that must be at the foundation of the instrument. The three criteria were the following: *Completeness*, which expressed the special relevance of the information supplied. *Extension*, ensuring that the information did not deal with matters that was exceedingly particular or specific. *Ease of access*, whereby the information was expected to be relatively simple to obtain.

Each item was given a score of 1 or 0 for each criterion, according to whether it was deemed fulfilled or not. Once the scorings of all the team's members had been

accumulated, each item was reviewed, and a decision was taken to exclude all those that did not exceed 4 points in the whole set of criteria. The result was 221 items that complied with such requirements.

Then, between March and April 2014, a decision was taken to submit the set of items that passed that first review pursuant to the three mentioned criteria to a new revision by the same coordinating team. In this case, besides proposing a stricter application of the criteria already used, two new ones were added: *Discrimination capacity*, so that the item allowed differentiation among the countries under study; and *clarity*, that is, that the item could be easily understood.

The scoring for each criterion and its accumulation were carried out like the previous review. Once the results had been obtained, the coordinating team takes the following decisions: To keep all those items with an accumulated scoring of 3 or 4 in each five criteria. To exclude those items that obtained an accumulated scoring of 0 or 1 in the completeness or discrimination criteria. To evaluate those items with accumulated scores that did not fit into any of the previous situations. To apply the *extension* criterion, taking as reference the pools where the different items were included, that is, to prevent a pool from having too many items referring to the same issue. To ensure that there was an acceptable proportion between rules and practices within each pool.

After the application of these criteria, the result obtained was 126 items in total (see the site: <https://rimesproject.files.wordpress.com/2018/11/formulacic3b3n-inicial-del-instrumento-rimes.pdf>) distributed in a homogeneous manner among the nine pools⁴, out of which 79 were punitive rules and 47 punitive practices.

It should be noted that throughout the two reviews carried out by the coordinating team, occasional improvements were introduced in the formulation of items that had been accepted and other items leading to partial overlapping were rejected.

4.2. Second phase. Validation of the instrument

In this second phase, the plan was to validate the instrument obtained up to that point using the content validity method through the judgment of experts. Since the goal was to establish an instrument for comparative measurement applicable to Western industrialized countries, its validation required the collaboration of many experts from the Western developed part of the world, and therefore a major part of the effort had been devoted to the selection of this elite group.

⁴ They each have between 12 and 15 items, except for a pool that included 19 items.

4.2.1. *Final version of the instrument to be validated, selection of experts and creation of the validation questionnaires*

Between the end of 2014 and the beginning of 2015 several important tasks were carried out, in order to prepare the validation process.

A. After establishing the items to be submitted to validation by the experts, the English version of such items was formulated. It was already partially done in previous phases but it needed a final version. Once the first English version of the 126 items had been drafted, it was sent for review to an English-speaking jurist/criminologist. Several communications were exchanged with her, especially to ensure that there were no negative formulations of the items and that the most appropriate technical terms had been selected to describe the different items. Then, at the end of 2015, the final English version was ready.

B. Tasks were undertaken for the selection of those experts that must validate the instrument, getting into contact with them and obtaining their acceptance.

Previously, the criteria for the selection of experts had to be determined. After an intense debate among the members of the coordinating team, and with the advice of the methodologists, the criteria finally established were the following:

a. The experts must carry out their professional career in Western developed countries and, through all of them the following five geographical areas should be encompassed: Northern Europe, Central Europe, Eastern Europe, Southern Europe and English-speaking countries in and out of Europe.

b. The experts must be involved in the fields of criminal justice policy, penal law or criminology, and had an accredited and significant experience in the academic or professional activities referring to the prevention or prosecution of crimes. Their experience must span a period of over 10 years. The academic experts must have a doctorate (PhD)⁵.

c. A moderate balance must be ensured between academics and professionals, men and women, and different ideological orientations.

d. The country of origin of said experts should be distributed among the geographical areas mentioned, so that no country was over-represented as regards the others. Nevertheless, countries with a smaller population should contribute with fewer experts.

e. The goal was to obtain around 100 experts coming from 20 different countries.

With those criteria, a first identification was conducted for a group of academics and professionals who were international references in their respective countries for the above-mentioned fields. Efforts were made to find two experts per country, although it

⁵ Initially this requirement was also established for professionals, but during the selection of experts it was decided that this would not be required for non-academics.

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was assumed that for small countries one could be enough. Given the relevance of the targeted persons, in most cases they were already known beforehand by members of the research team. In a few cases, consultations were carried out from bibliographic sources, contributions to conferences, memberships in certain organizations and other judgment elements. In all cases, the focus was on people with a long academic or professional background, and therefore their experience far exceeded 20 years. The aim was to get a balanced selection, based on the already-mentioned requirements.

Then, the coordinating team contacted those persons, informed them of the ongoing research project, asked them if they wished to participate and explained to them that they would be required to provide three contributions, if they accepted. The first was to complete a brief questionnaire with some personal data. The second consisted of giving three names of colleagues in their own country who, in their opinion, had the required academic or professional experience to take part in the project. The third was to participate in the second validation phase of the questionnaire, which would refer to those items having passed the first validation phase. Not all the experts initially contacted accepted to participate, although quite a significant number of them did. So the coordinating team got in touch with other experts in their respective countries who complied with the aforementioned conditions. Finally, after having contacted 58 experts from 20 countries, 28 experts from 18 countries⁶ accepted to participate (see Table 1). The coordinating team got in touch with all of them again so that they would complete the first two contributions that were required.

As the selection of this group of experts progressed and the coordinating team asked them to provide the first two contributions, the names of the three experts they proposed from their own country by using the 'snowball' technique, were collected. The coordinating team examined these new experts to verify that they met, individually or as a whole, the criteria set for all experts. The majority of first experts supplied the three asked names, but they sometimes offered less or none at all. Besides, in some cases, those experts whose names had been supplied did not meet the required profile or, even if they did, they had to give way to others with a profile that allowed the team to complete the group needed, adapted to the goals. Finally, a certain number of experts from this second group declined to participate in the project after the letter had already been sent with the information on the nature of the project and the contribution they were required to supply in the first validation phase of the research project. And a few of them, in spite of having accepted to participate, in the end did not. In all these cases, the coordinating team either contacted the first experts again asking them to provide new names, or else it proceeded to search them through similar means to those used with the first experts selected. As far

⁶ Two of them finally could not participate in the validation of the questionnaire for the reasons explained below. The participation of experts from Austria and Sweden was not achieved.

as possible, an effort was made to keep the ratio of three new experts from the same country from where the experts initially selected came from, which was not always achieved. Ultimately, although the coordinating team started with 84 accepting experts in this second group, it could only effectively count on 71 new experts from the same 18 countries (see Table 1) of the experts first selected.

In short, the selection of experts materialized in the effective participation of 97 experts from 18 countries in the validation of the questionnaire, as shown in Table 1. The method followed for the validation of the RIMES instrument makes advisable to mention the experts participating in the process, in order to ascertain their prominence, relevance and diversity within the fields of criminal policy, criminal law and criminology.

Table 1. Experts selected in both groups, by country

Country	1st Experts' Group	2nd Experts' Group
Germany	Frieder Dünkel Rita Haverkamp	Ineke Pruin Christine Morgenstern Harald Arnold Tillmann Bartsch
Belgium	Turnhan Parmentier Sonja Snacken	Tom Daems Jenneke Christiaens Els Dumortier Sofie De Kimpe
Canada	Anthony Doob	Cheryl Webster Howard Bebbington Jane B. Sprott
Denmark	Anette Storgaard	Signe Herving Ditte Nyggard Louise Hansen
United States	Emilio Viano James Jacobs	Clairissa Breen Alison Mikkor Katharine Tinto Elisabeth Nevins Lila Kazemian

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	José Luis de la Cuesta	Ana Isabel Perez Machio Isabel Germán Mancebo Xabier Arana Berastegi
Finland	Tapio Lappi-Seppälä	Mikko Aaltonen Janne Kivivuori Henrik Linderborg
France	Laurence Dumoulin	Jacques DeMaillard Sebastian Roché
The Netherlands	John Vervaele René Van Swaeningen	Michiel Luchtman Jolande uit Biejerse Marijke Malsch John Blad
Hungary	Miklós Levay	Zoltan Fleck Eszter Sárík Szilveszter Póczik
United Kingdom	Nicole Padfield Gillian McIvor	Jane Dominey Wendy Fitzgibbon Joel Miller Niall Hamilton-Smith Paul Quinton
Ireland	Michael Reilly	Eimear Spain Mary Rogan Claire Hamilton
Italy	Lorenzo Picotti Fabio Quassoli	Roberto Flor Ivan Salvadori Roberto Cornelli Alvise Sbraccia Andrea Molteni
New Zealand	Warren Young	John Pratt Yvette Tinslaw

Poland	Beata Gruszczynska Krzysztof Krajewsky	Pawel Ostaszewski Bárbara Błońska Grzegorz Bogdan Krzysztof Wilamowski Witold Klaus
Portugal	Candido Da Agra Augusto Silva Dias	Diogo Da Costa Jorge Quintas José Leal Inês Ferreira Leite Ana Sofia Xavier Marques
Romania	Florin Streteanu	Daniel Nitu Sergiu Bogdan Raluca Morosanu
Switzerland	Marcelo Aebi Nicolás Queloz	Giang Ly Isenring Manon Jendly Anne-Claude Scheidegger Frédéric Gisler Raphael Brossard

C. In February 2015, the coordinating team approved the design of the questionnaire through which the validation of the 126 items initially selected, and its implementation process, would be carried out, in the following terms:

a. The questionnaire of items should be validated after going through two turns of examinations by the experts. The 84 experts recruited in the second phase of experts' selection mentioned above participated at the first turn. The 28 experts initially recruited took part at the second turn.

b. At the first turn, the experts had to validate the 126 items submitted to them and resulting from the identification, selection and review processes conducted by the research team. Each expert would handle one third of the items included in the initial questionnaire. This led to the division of the questionnaire into three blocks of 42 items. The experts must complete questionnaire 1 (including items 1 to 42 of the entire questionnaire), 2 (items 43 to 84), or 3 (items 85 to 126) at random, assigning them successively one of the three, depending on the time of confirming their participation in the validation process.

c. The partial questionnaires to be completed at the first turn had the following elements: A first part with a brief explanation of the basic concepts of what must be measured, with examples, and the instructions for an adequate reply to the questions made

about the items of the questionnaire attached. These questions were two: The first referred to the *clarity* of the corresponding item, for instance, if the semantic content was well understood. The second would be on the *suitability* of the punitive rule or practice mentioned in the item to generate social exclusion in the groups under study. Each of the two questions raised for each item must be given a score of 1 to 5 in a Likert scale, where 1 was the lowest value for clarity or suitability and 5 was the highest value for those dimensions. The second part should contain the list of items, which should permit answering both questions of each of them in the same line. The third part consisted of a form to be completed by the expert, including a number of personal and professional questions similar to those already posed to the first group of experts when they accepted to participate.

The questionnaires must be completed online using the *Qualtrics* program. This is an innovative research platform for complex decision-making, of simple design and execution. To this end, an e-mail with the appropriate link to the platform was sent to each expert.

d. At the second turn, those items having passed the validation criteria of the first turn should be submitted for validation to the first group of experts. In this case, if its size estimated was confirmed, the whole questionnaire resulting therefrom should be divided into two parts, assigning one-half or the other half of the questionnaire to the experts, based on criteria to be determined later on. In other words, 14 experts should complete each part of the questionnaire. If the number of items having passed the first turn was lower than 40, the entire questionnaire resulting therefrom would be applied to each participant in this group of experts.

e. The questionnaires to be completed at the second turn should include the following elements: The first part, similar to the questionnaires at the first turn, except for an additional information related to the nine pools where all the items of the instrument to be validated were distributed. This was because the questions to be replied were no longer two, but three. To the two questions already contained in the questionnaires of the first turn, a third one was added, inquiring on the *appropriateness* of including the corresponding item in a specific pool. A score of 1 to 5 on a Likert scale must be given to all three questions, in the same way as the previous turn. The second part of the questionnaire would contain the list of items, with three lines each to answer to the three questions. The third part of the questionnaire of the first turn should not be included, since such information was obtained previously, as already said.

The questionnaires were sent to the experts and they must be completed in the same way as the previous turn.

4.2. Validation of the questionnaire by experts. First turn

The periods initially given to complete questionnaires 1, 2 and 3 of the first turn ranged between one and two months. Nevertheless, practice showed that those periods were too optimistic, since the completion and collection of these questionnaires extended throughout a period of 15 months, up to May 2016. To the delay in replying by a significant group of those experts -which compelled to send, in the worst case, up to three reminders-, was added the fact that other experts, despite having accepted, finally did not reply and it was necessary to find new experts from the appropriate countries, apart from other incidents. Finally, questionnaire 1 was completed by 26 experts from 18 countries, questionnaire 2 by 23 experts from 17 countries and questionnaire 3 by 22 experts from 16 countries. In other words, a response rate of 84.52 per cent out of the total number of questionnaires sent; two questionnaires 1, five questionnaires 2 and six questionnaires 3 remained uncompleted.

Once the research team had the answers to the questionnaires, they were analyzed through an inter-judge reliability statistical test consisting of Aiken's V coefficient for validation (Aiken, 1980). Based on this coefficient, all those items with a coefficient lower than 0.70 were deemed not validated, in principle. This resulted in 62 items validated as regards *clarity* and 81 for *suitability*, out of 126 items submitted to validation (see Tables 2 and 3).

Table 2. Aiken's V Coefficient results according suitability

Aiken's V Coefficient intervals	n
0.80 and higher	42
0.75 – 0.79	19
0.70 – 0.74	20
Not validated	45
TOTAL	81

Table 3. Clarity scores of 81 validated items

With problems in clarity	Aiken's V Coefficient intervals	n
No problems	0,70 and higher	62
Some problems	0,60 – 0,69	13
With problems	0,50 – 0,59	6



Taking into account these results, the research team implemented the following decisions, with the aim of improving the operability of the instrument being developed:

a. To use as reference point for the configuration of the second turn questionnaire those items having obtained Aiken's coefficients not lower than 0.70 for *suitability* and *clarity*.

b. To allow the inclusion at the second turn questionnaire of some items that, having obtained a coefficient between 0.55 and 0.69 for *clarity*, had in any case an Aiken's coefficient not lower than 0.70 for *suitability*, and were necessary to satisfy the other criteria immediately infra mentioned (letter c).

If they were finally included at the second turn questionnaire of validation, an additional effort would be made in their wording for improved clarity.

c. To reduce, with respect to the second turn, the number of items in the questionnaire. To that end, all the items with the above-mentioned qualities would be reviewed according to the following three criteria:

i. *Redundancy* of the item, in other words, the fact of addressing an issue -even if there was no overlapping of content-, that was similar to other within the same pool.

ii. Search of a certain proportion among items that constitute either rule or practice within each pool and in the questionnaire in general.

iii. Keeping a number of items per pool that is similar enough.

iv. Scoring for *clarity*.

The *result* of all that work was a questionnaire with 65 items at the second turn, distributed among nine pools, each one of them comprising between 5 and 11 items, which amounted to a total of 44 rules and 21 practices.

4.3. Validation of the questionnaire by experts. Second turn

Once the structure and extension of the questionnaire to be submitted for validation to the experts at the second turn was known, between September and October 2016, the research team adopted the following additional decisions regarding methodology:

a. The questionnaire should be divided into two: Questionnaire 1 would have 33 items, and questionnaire 2, 32 items. Items were distributed at random between the two partial questionnaires that must be completed.

b. The experts at this second turn were divided into two subgroups, so that one would answer questionnaire 1 and the other, questionnaire 2. Such division of experts was decided not to be carried out at random, since it was intended to have an equivalent group heterogeneity, based on the personal features already obtained from each one of these experts.

Both questionnaires were sent at the end of October 2016. At the close of that year the collection of the questionnaires sent was concluded, with a high response rate (92.85

per cent), since 26 out of the 28 questionnaires sent were completed: 13 of questionnaire 1 and 13 of questionnaire 2⁷.

After applying Aiken's V validation coefficient to the items of both questionnaires, for *clarity* coefficients higher than 0.60 were obtained in all the items, while for *suitability* coefficients equal or higher than 0.70 were obtained in 55 of the 65 items, and for *appropriateness* coefficients equal or higher than 0.70 were obtained in 63 out of the 65 items (see Table 4).

Table 4. Aiken's V coefficient results

Aiken's V coefficient intervals	Clarity	Suitability	Pool appropriateness
0.80 and higher	45	35	56
0.75 - 0.79	12	13	5
0.70 - 0.74	1	7	2
0.69 and lower	7	10	1
Not validated	0	0	1
TOTAL	65	65	64

After discarding all those items with values lower than 0.70 in Aiken's V coefficient for *suitability* and *appropriateness*, the result was a questionnaire made up by 55 items. Out of those, for *clarity* only three items obtained an Aiken's coefficient between 0.63 and 0.69, the remainder got a coefficient equal or higher than 0.70.

4.4. Final configuration of the RIMES instrument

At the beginning of 2017, the research team was pleased to realize that, after the two validation turns, it had achieved to have the experts validate a significant number of items: 55 out of the 126 at the beginning the inter-judge validation process. Yet, the number of validated items was excessive for the instrument implementation to be feasible. It was therefore decided that the whole team would carry out a new review of those 55 items by applying the following criteria:

- a. To seek that a number of items of around 35 make up the final instrument, not exceeding the limit of 40 items in any case.

⁷ One of the pending questionnaires was not received due to death of the expert, and the other one owing to lack of time connected with an appointment for a relevant academic management office.

- b. To preserve as far as possible those items that obtained the highest scores in Aiken's coefficient for *suitability*.
- c. To ensure that those items finally selected have high scores for *clarity*⁸.
- d. To value the *ease of access* for obtaining information that provide the item's content.
- e. To review again the *redundancy* of each item.
- f. To continue trying to achieve a certain balance between rules and practices within each pool and the instrument in general.
- g. To ensure that no pool has a number of items -between rules and practices- lower than three.
- h. There should be no big difference among pools as regards the number of items.

After several meetings of the entire research team, where a detailed procedure was adopted for verification of all these requisites, in February 2017 a final agreement was reached regarding the RIMES instrument that consisted of 39 items, including 26 rules and 13 practices, and a number of items ranging between 4 and 5 within each pool (see Table 5).

Table 5. Scores of definitive selected items

Aiken's V coefficient intervals	Clarity	Suitability	Pool appropriateness
0.80 and higher	31	30	38
0.75 - 0.79	7	8	1
0.70 - 0.74	1	1	0
0.63 - 0.69	0	0	0
Not validated	0	0	0
TOTAL	39	39	39

The list of those items finally selected, with the scoring for clarity, suitability and appropriateness obtained by each one at the second turn of the validation is as follows (see Table 6).

⁸ Besides, slight modifications of the wording of a few items were still made.

Table 6: Validation according to Aiken's V Coefficient

R or P	Pool s	List of indicators	Clarity	Suitability	Pool appropriateness
R	7	93. Nationals sentenced to imprisonment for any criminal offence are not eligible for welfare benefits for a certain period after having served their sentences.	0.92	0.96	0.96
R	7	92. Those sentenced to up to 3 years of imprisonment for any criminal offence are not eligible for public housing for a certain period after having served their sentences.	0.96	0.96	0.98
R	3	36. Default imprisonment is the sole alternative to non-payment of a fine.	0.94	0.94	0.94
P	8	107. The media regularly disclose the full names, current addresses or pictures of ex-felons.	0.98	0.94	0.94
R	9	117. Youth justice provides custodial sanctions of over 10 years.	0.90	0.94	0.94
R	7	86. Those sentenced to up 3 years of imprisonment for any criminal offence may be deprived of the right to vote for over 4 years after serving their sentences.	0.88	0.92	0.92
R	7	88. Legally resident foreigners may be deported if they receive a custodial sentence up to one year or a non-custodial sentence.	0.85	0.92	0.88
R	8	101. The criminal records of any citizen are legally accessible through internet.	1	0.92	0.98
P	8	110. Most companies with over 100 employees require a clean criminal record for recruitment.	0.87	0.90	0.94
P	9	126. Alien minors are deported because of an offence.	0.85	0.90	0.90

R	7	91. Those sentenced to up to 3 years of imprisonment are prohibited from doing certain jobs not connected with their offences or with law enforcement for a period of more than 5 years their sentence has been completed.	0.71	0.88	0.87
R	1	1. Any person may be arrested for repeated street begging.	0.94	0.88	0.96
R	1	3. At its discretion, the police may enforce restrictions on specific individuals to access some public spaces (parks, squares, streets...).	0.85	0.88	0.92
R	4	43. Life imprisonment without release is legally available.	0.87	0.87	0.98
P	4	52. Life imprisonment is imposed on ethnical or racial minorities, or on people in poverty in over 80% of cases.	0.87	0.87	0.85
R	9	120. 120. Minors' criminal records keep legal effects after reaching the age of majority	0.87	0.87	0.88
P	1	11. Discriminatory street police interventions (stop and search, arrests, frisks/body searches...) targeting specific groups occur regularly.	0.88	0.85	0.92
R	6	79. The maximum statutory term for pretrial detention exceeds 3 years.	0.90	0.85	0.85
R	9	113. Youth justice applies to children who are 12 years old or younger.	0,85	0.85	0.90
R	3	33. In the case of prison sentences, neither probation as an alternative to sentencing nor suspended sentences are envisaged in the law.	0.77	0.83	0.96
P	3	38. At least three quarters of the inmates are serving their sentences in closed prisons.	0.88	0.83	0.92
R	4	42. Death penalty is legally available.	1.00	0.83	0.94
R	1	2. An individual may be arrested for loitering.	0.79	0.83	0.92

R	8	100. Anyone may request information about other people's criminal records without needing to argue grounds established by law.	0.81	0.83	0.94
R	2	21. The criminal justice system lacks indigent defense services.	0.83	0.81	0.92
P	4	50. Those sentenced to life imprisonment regularly serve more than 25 years.	0.96	0.81	0.88
R	5	55. The system lacks a specific prison regime for young adults.	0.96	0.81	0.90
P	5	68. Family and intimate visits take place at intervals of over one month.	0.98	0.81	0.92
R	3	35. The law lacks provisions for penalties other than prison (community service, fines, house arrest...) in cases of less serious felonies.	0.83	0.81	0.92
R	5	62. The law lacks statutory provisions regulating inmates' legal assistance for penitentiary matters.	0.79	0.81	0.88
P	9	121. Custodial sanction is one out of three most common sanctions applied to minors.	0.83	0.79	0.90
R	5	64. The law requires payment of fees by the inmate before claiming judicial review of penitentiary decisions.	0.77	0.79	0.88
R	6	74. Preventive detention may last for an unlimited period of time.	0.83	0.79	0.94
P	6	82. Over 30% of the prison population is in pre-trial detention.	0.96	0.77	0.85
R	2	22. Payment of court fees is legally required from the defendant in order to get access to appellate review	0.79	0.77	0.87
P	2	25. A significant number of mentally ill inmates serve their sentences in regular correctional facilities.	0.85	0.77	0.75
P	3	37. The incarceration rate is higher than 120 inmates per 100,000 inhabitants.	0.87	0.77	0.85

P	6	81. The average length of preventive detention exceeds 5 years.	0.77	0.77	0.87
R	2	24. The regular term for police detention established by the law exceeds 5 days.	0.79	0.73	0.90

The final instrument, structured by pools, is formulated hereinafter (see Table 7).

Table 7. Final instrument, by pools

Pools	Rules	Practices
1. Control of public spaces	1. Any person may be arrested for repeated street begging	11. Discriminatory street police interventions (stop and search, arrests, frisks/body searches...) targeting specific groups occur regularly
	2. An individual may be arrested for loitering	
	3. At its discretion, the police may enforce restrictions on specific individuals to access some public spaces (parks, squares, streets...)	
2. Legal safeguards	21. The criminal justice system lacks indigent defense services	25. A significant number of mentally ill inmates serve their sentences in regular correctional facilities
	22. Payment of court fees is legally required from the defendant in order to get access to appellate review	
	24. The regular term for police detention established by the law exceeds 5 days	
3. Sentencing and sanctions systems	33. In the case of prison sentences, neither probation as an alternative to sentencing nor suspended sentences are envisaged in the law	37. The incarceration rate is higher than 120 inmates per 100,000 inhabitants
	35. The law lacks provisions for penalties other than prison (community service, fines, house arrest...) in cases of less serious felonies	38. At least three quarters of the inmates are serving their sentences in closed prisons
	36. Default imprisonment is the sole alternative to non-payment of a fine	

4. Harshest penalties	42. Death penalty is legally available	50. Those sentenced to life imprisonment regularly serve more than 25 years
	43. Life imprisonment without release is legally available	52. In over 80% of life sentences those serving time are from an ethnic minority background or were living in poverty
5. Prison rules	55. The system lacks a specific prison regime for young adults	68. Family and intimate visits take place at intervals of over one month
	62. The law lacks statutory provisions regulating inmates' legal assistance for penitentiary matters	
	64. The law requires payment of fees by the inmate before claiming judicial review of penitentiary decisions	
6. Preventive intervention	74. Preventive detention may last for an unlimited period of time	81. The average length of preventive detention exceeds 5 years
	79. The maximum statutory term for pretrial detention exceeds 3 years	82. Over 30% of the prison population is in pre-trial detention
7. Legal and social status of offenders and ex-offenders	86. Those sentenced to up to 3 years of imprisonment for any criminal offence may be deprived of the right to vote for over 4 years after serving their sentences	
	88. Legally resident foreigners may be deported if they receive a custodial sentence up to one year or a non-custodial sentence	
	91. Those sentenced to up to 3 years of imprisonment are prohibited from doing certain jobs not connected with their offences or with law enforcement for a period of more than 5 years their sentence has been completed	

	92. Those sentenced to up to 3 years of imprisonment for any criminal offence are not eligible for public housing for a certain period after having served their sentences	
	93. Nationals sentenced to imprisonment for any criminal offence are not eligible for welfare benefits for a certain period after having served their sentences	
8. Police and criminal records	100. Anyone may request information about other people's criminal records without needing to argue grounds established by law	107. The media regularly disclose the full names, current addresses or pictures of ex-felons
	101. The criminal records of any citizen are legally accessible through internet	110. Most companies with over 100 employees require a clean criminal record for recruitment
9. Youth criminal justice	113. Youth justice applies to children who are 12 years old or younger	121. Custodial sanction is one out of three most common sanctions applied to minors
	117. Youth justice provides custodial sanctions of over 10 years	126. Alien minors are deported because of an offence
	120. Minors' criminal records keep legal effects after reaching the age of majority	

Once available the RIMES instrument, the research team started its application in Spain, as a pilot project, before proceeding to its application to additional countries. This first application experience and its results will be explained in other paper.

5. Conclusions

This research started on the assumption that the criminal policy knowledge needs rigorous methodological instruments that may enable it to evaluate and propose correct and efficacious crime control policies.

For this purpose, it was necessary to choose a criterion for the analysis of contemporary criminal policy with the capacity of showing significant, comprehensive and consistent results. Contrary to the usual criminal policy reflection nowadays, this research has chosen the dimension of the social exclusion that crime control may generate on groups particularly affected by punitive intervention.

Selecting a promising analytical criterion is not enough, but it must become operative, so that it may develop all its potentials, both explanatory and critical. The RIMES tool for the comparison of national criminal justice policies from the perspective of the social exclusion they produce on particularly sensitive groups, the creation of which is explained in this article, constitutes the achievement of such goal.

Said instrument, which measures the presence in a certain national crime control system of punitive rules and practices that are socially exclusionary, has been validated in a methodologically rigorous manner, through a double inter-judge valuation where about 100 experts from 18 countries in the Western developed world have participated.

Its implementation in a large number of Western developed countries would allow to compare their respective national criminal justice policies based on a particularly significant dimension concerning the performance of its crime control systems. Therefore, it will be possible to draw a continuum within a scale among national criminal policies that are more or less socially exclusionary, identifying the level to which the exclusionary intervention techniques are expanding in the Western developed world, and grouping those results in nine relevant fields of criminal intervention.

Ultimately, it would provide information of great relevance in order to promote and design criminal justice policies that are less socially exclusionary for those groups most affected by criminal intervention.



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