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An Exploratory Application of RIMES Tool for International Comparison of Penal Systems: The South American Experience[1]

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Abstract: The comparison of criminal justice systems has proven relevant for understanding their characteristics, dynamics, and practices. One strategy for contrasting penal systems is based on comparative criteria, such as those proposed by the social inclusion-exclusion dimension, which has been implemented through the socially exclusionary approach using the RIMES tool in jurisdictions in the Global North. This paper aims to critically evaluate the results and limitations of the exploratory application of RIMES in South American penal systems. On the one hand, the results point to the capacity of this tool for international comparison of criminal justice systems. On the other hand, this exploratory application revealed some limitations and challenges that need to be reconsidered to strengthen RIMES' capacity for extra-regional penal policy comparison.

Keywords: *Social Exclusion, Comparative Penal Policy, South America, Penal System, Rimes*

1. Introduction

Comparative penal policy identifies the similarities and differences between strategies that aim to prevent crime, and which are applied in different geographical contexts. Research in this field, therefore, seeks to classify, describe, explain, interpret and evaluate such strategies in terms of their distinctive characteristics or features (Nelken & Hamilton, 2022a).

In this regard, comparative penal policy analysis has proven to be relevant for several reasons. First, it provides an updated overview of crime prevention and control strategies used in different geographical areas. Second, it contributes to enriching theoretical proposals on crime prevention in numerous contexts, as well as contrasting their empirical validity. This constitutes a valuable input for the evaluation of their effectiveness, efficacy and efficiency, and for the identification of good practices in other parts of the world that can be applied or adapted in different contexts (Nelken, 2010; Pakes, 2019).

In recent decades, comparative penal policy studies have been carried out from multiple theoretical and methodological perspectives (Becerra Muñoz, 2023; Nelken & Hamilton, 2022b; Newburn & Jones, 2022; Terrill, 2024). This paper focuses on research that deals with the comparison of criminal justice systems. Specifically, it focuses on those that seek to delve into the similarities and differences between the strategies and actions that the penal institutions of the various states design and implement to prevent and control crime (Dammer et al., 2006; Shahidullah, 2014).

The value of comparing criminal justice systems coincides with the reasons that justify the general importance of comparative penal policy. However, it is possible to note

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particularities regarding its object of comparison. First, it provides an insight into the different aspects of criminal law and the effects and consequences of its application. Secondly, it offers a better understanding of the functioning, dynamics and dimensions of the bodies responsible for its design and implementation in diverse geographical areas, both at a theoretical and practical level. Consequently, this comparative knowledge on the different aspects of the penal response and its effects becomes relevant material for maintaining, improving or modifying penal policy decisions at the international, national, regional and/or local level (Dammer et al., 2006; Shahidullah, 2014).

The existing literature on the comparison of penal justice systems constitutes a substantial and valuable body of knowledge (Dammer et al., 2006; Meško, 2023; Nelken, 2010; Pakes, 2019; Shahidullah, 2014). It includes studies that assess penal systems relative to a given analytical dimension highlighting characteristics of the norms and practices adopted in different contexts. One of the most frequently employed dimensions in the international comparative penal policy literature is that of rigour/moderation, which arose as a result of the transformations in penal policy in Anglo-Saxon countries at the end of the 20th century (Garland, 2001). This is operationalised in the criterion of penal rigorism, also referred as punitiveness, which evaluates penal justice systems according to whether their intervention produces more suffering than is necessary for the individual to whom it is applied (Díez-Ripollés, 2013; Downes, 2011; Matthews, 2005; Newburn & Jones, 2022).

Research comparing penal justice systems from this perspective typically uses the rate of imprisonment per 100,000 inhabitants as one of the indicators reflecting their extent, since imprisonment is one of the most severe sanctions in the penal justice system (Cavadino & Dignan, 2005; Lacey, 2008; Tonry, 2007a). The literature has highlighted the advantages and limitations of using this indicator (Cid, 2020; Díez-Ripollés, 2013; Lappi-Seppälä, 2008; Tonry, 2007b). Besides, the predominance of penal rigorism as a criterion for comparison has been questioned, emphasising the need to explore new theoretical frameworks and geographical contexts that enrich the comparative penal policy debate (Brangan, 2020; Hamilton, 2014; Matthews, 2005).

In this context, the proposal of the penal policy model of social inclusion arises (Díez Ripollés, 2024a), as an interesting alternative to the contemporary predominance of the punitiveness dimension. The proposal of this model is based on the need to reconsider penal policy from the perspective of welfare public policies, which aspire to guarantee both the liberty of its citizens and the equality of its members (Díez Ripollés, 2024a).

To this end, the said model considers the dimensions of social inclusion and exclusion, referring to the effects that the penal interventions have on suspects, defendants, offenders and ex-offenders. This is based on the premise that an inclusionary penal policy is more effective in the medium and long term in preventing crime than a socially exclusionary one. Hence, the aim of the social inclusion model is to achieve two complementary objectives. Firstly, to prevent crime through socially inclusive penal interventions. Secondly, it aims to facilitate this process by reducing the use of socially exclusionary penal interventions (Díez Ripollés, 2024a).

In order to achieve the stated objectives, the aforementioned model delineates two dimensions - penal social inclusion and penal social exclusion- which form the basis of an

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innovative theoretical-methodological proposal for the comparison of contemporary penal justice systems. The comprehensive analysis of the penal system that these dimensions allow for contributes, precisely, to enriching the comparative penal policy discussion in this sense (Díez Ripollés, 2024a).

Starting from the contemporary reality of penal control, Díez Ripollés (2024a) formulates a first implementation of his model, focusing on the socially exclusionary dimension. This decision involves comparing the penal justice systems in terms of the social exclusion that the reaction of the agencies of penal control produces on suspects, defendants, offenders and ex-offenders (Díez Ripollés, 2024a). To this end, the RIMES instrument was designed, a penal policy tool to contrast the similarities and differences between the penal justice systems from the aforementioned perspective. This tool comprises 39 items across nine areas of penal systems: control of public spaces, legal safeguards, sentencing and sanctions systems, harshest penalties, prison rules, preventive intervention, legal and social status of offenders and ex-offenders, police and penal records, and youth penal justice[3]. Items are organised into two types: rules, which capture the formal content of the law ("law on the books), and practices, which capture how the law is implemented ("law on action"). The application of RIMES in different countries has the aim of creating a scale of socially exclusionary penal justice systems (Díez Ripollés, 2024b; Díez Ripollés & García España, 2019).

RIMES has been applied in both European and US jurisdictions (García España & Cerezo Domínguez, 2024b). The general results of this initial application show a higher socially exclusionary tendency in the Anglo-Saxon jurisdictions compared to the continental European ones. The most exclusionary areas being the control of public spaces, harshest penalties, prison rules, police and criminal records, and youth penal justice (García España & Cerezo, 2024a). Currently, this instrument continues to be applied to six additional jurisdictions within the aforementioned geographical areas. These are Finland, Romania, France, Portugal, Texas and Florida. The aim of this is to further deepen comparisons of penal justice systems from the perspective of penal social exclusion (RIMES Project, 2024).

Despite the challenges encountered during the implementation process, it is possible to emphasise the merits of this instrument as a comparative penal policy tool in a Global Northern context, specifically in the set of European and US jurisdictions where it has been applied (García España & Cerezo, 2024a). Nevertheless, further discussion is required to test the extent of the tool's international scope by examining its comparative usefulness across geographical regions. For this reason, this paper aims to explore the applicability of RIMES for the international comparison of penal justice systems in a different geographical area, specifically in the South American region. In this way, the goal of this paper is to continue investigating the strengths and limitations of this comparative tool, as well as the theoretical and methodological framework that supports it.

The application of RIMES to evaluate South American penal justice systems represents an innovative proposal. Firstly, because it allows for an empirical approximation of the socially exclusionary effects produced by the penal reaction across nine major areas of penal intervention within each national penal justice system studied. Secondly, because it facilitates

[3] The list of the 39 items is available at rimesproject.uma.es

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to identify the differences between the normative provisions and their material implementation. And thirdly, because of the political impact that the results of its application could have on the South American authorities responsible for formulating and implementing penal policy.

In this same vein, the South American region is an attractive environment in which to continue evaluating the comparative approach to penal social exclusion, as well as the benefits of RIMES for the international comparison of penal justice systems. In this regard, the complexity of South American penal justice systems, as well as their diverse socio-historical contexts, could help to operationalize the construct of penal social exclusion. Relatedly, the heterogeneity of the South American reality could contribute to take into account socially exclusionary criminal manifestations unobserved or unconsidered in other geographical areas, thereby enriching the comparative penal policy discussion at the international level.

2. A Brief Overview to South American Criminal Justice Systems

South America is a region that faces several challenges related to structural factors in all its countries. These issues encompass elevated levels of economic inequality and social exclusion (Eslava & Valencia Caicedo, 2023; Cepal, 2023; Salazar Xirinachs, 2022), democratic instability and political crisis (EIU, 2024; Mainwaring & Pérez-Liñán, 2023; Corporación Latinobarómetro, 2023a), high rates of violence (Malone & Dammert, 2021; Rodríguez, 2024; Corporación Latinobarómetro, 2023b; Dammert et al, 2024), and the defiance posed by the migration crisis that the region is currently experiencing (McAuliffe & Oucho, 2024; BID, 2023; Freier & Pérez, 2021; Dufraix et al, 2025).

These challenges, as well as economic, political, historical, social and cultural characteristics, directly or indirectly influence the response of South American countries to crime. Generally speaking, and considering the specific nuances at the national, regional and local levels, it is possible to identify cross-cutting features of the penal reaction in this context. These include the prevalence of both a securitarian approach and punitive decisions, characterised by a discourse of 'zero tolerance' and an 'iron fist' towards the offender (Iturralde, 2022; Cutrona et al, 2024; Rodríguez Pinzón & Rodríguez, 2020).

This rigorous tendency produces negative consequences that, far from effectively preventing crime, produce more violence. One of the areas where these negative effects can be seen is the penitentiary sphere, where the prevalence of prison sentences and their excessive length prevent the promotion of a true social reintegration of persons deprived of liberty in South America (Pierce & Fondevila, 2020; Bergman & Fondevila, 2021; Hathazy & Müller, 2016). All in all, there is a growing regional interest in responses to crime based on approaches other than the securitarian one, such as restorative or transitional justice (Amaya et al, 2021; Díaz Román et al, 2019; Puente Narváez, 2023; Mira González, 2024; Ramírez Treviño, 2022). However, there is still a need to evaluate other penal policy models aimed both at guaranteeing and respecting the rights of the people on whom the penal intervention falls, and at preventing crime in an effective way.

The development of comparative penal policy research on South American penal justice systems is currently underway. In recent decades, studies on the subject have focused on

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several aspects of the penal response from different perspectives. On the one hand, a significant proportion of these studies aim to investigate the similarities and differences in the punitive reaction in different South American countries, especially in the legislative or penitentiary sphere (Muggah, 2019; Müller, 2012; Bergman & Fondevila, 2021; Sozzo; 2017).

On the other hand, there are studies that focuses on the organisational dimension of the penal justice system, that is, on the characteristics and performance of its various agencies (Dammert, 2022). Along these lines, there are studies that reflect on the authoritarian legacy in the design of penal policy, as well as on the performance of its agencies (Frantz, 2019). Finally, there is also literature that addresses crime and punishment from the Global South, through the lens of Southern Criminology (Iturralde, 2022; 2024; dal Santo, 2022; Sozzo, 2026).

Overall, this represents a significant contribution to the ongoing discussion on the similarities and divergences between South American criminal justice systems. Nevertheless, further research is needed to deepen the discussion on comparative penal policy using other theoretical and methodological approaches, in order to enrich the understanding of the characteristics and consequences of penal intervention in this region. Likewise, to propose effective penal policy alternatives that are in accordance with constitutional and international standards. In this context, the theoretical and methodological proposal of the social inclusion model represents an interesting alternative to enhance this discussion. The comprehensive, dynamic and realistic analysis proposed by this model allows for the simultaneous examination of different dimensions of the criminal justice system, while providing an overall of the distinctive features of the state's response to crime.

3. Methodological considerations

3.1 Positionality and Research Design

This paper seeks to evaluate the applicability of the RIMES instrument to the international comparison of penal systems, with particular focus on South American countries. In methodological terms, an exploratory approach will be adopted, the nature of which lends itself to testing the utility of innovative frameworks across different contexts (Maxfield & Babbie, 2017).

With the foregoing in mind, I acknowledge the methodological objections that exploratory application of an instrument developed in the Global North to jurisdictions of the Global South may entail that will be discussed right ahead. Notwithstanding this, I contend that undertaking such an exercise may yield, from a critical perspective, valuable insights that advance comparative penal policy debate at both the theoretical and methodological levels. This aligns with the stance adopted by other researchers who are also seeking to enrich the debate from this critical and constructive perspective on theoretical and methodological approaches from the North to the Global South (dal Santo, 2022; dal Santo, 2020; Iturralde, 2024). Accordingly, this work will examine, as previously noted, the applicability of RIMES to the comparison of South American penal systems with one another and with the broader developed Western world. In doing so, it will seek, through a

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critical appraisal of its findings, to contribute to the dialogue on the production of knowledge, in this case, comparative penal policy knowledge, from and about the Global South.

The first concern could be related to the countries for which RIMES was designed in the first place. In this regard, it is worth recalling that the penal policy model of social inclusion was originally conceived for implementation in developed Western countries (Díez Ripollés, 2024a). The first operationalization of this geographical category encompassed European and North American jurisdictions (Arenas-García, 2024; Díez Ripollés & García España, 2019).

Nevertheless, I would argue that this methodological decision does not necessarily constitute an insurmountable obstacle to testing RIMES' capacity to identify socially exclusionary penal manifestations in other regions of the world. On the contrary, it serves as an incentive to examine the instrument's potential as a suitable tool for the international comparison of penal systems more broadly, beyond the confines of Europe and North America.

With regard to South America, the various economic, social and/or political perspectives and indicators through which the construct of 'developed Western countries' may be operationalised allow for the inclusion of certain South American nations. For instance, if it was operationalised drawing on the list of member states of the Organisation for Economic Cooperation and Development (OECD), it would be possible to encompass Chile and Colombia, which have been members of this international organisation since 2010 and 2016, respectively. Furthermore, the OECD is currently considering the possible accession of three further South American countries: Argentina, Brazil, and Peru (Organisation for Economic Co-operation and Development, 2024).

The second concern may be raised from a decolonial perspective or from that standpoint of Southern Criminology. Both approaches address the tensions involved in examining crime and penalty from the Global South whilst engaging with theoretical and methodological frameworks developed in the Global North (Aliverti et al., 2021; Carrington et al., 2016; Sozzo, 2023). That said, and drawing on scholarship concerned with the production of knowledge about and from the Global South, including its own internal peripheries (Aliverti et al., 2021; Sozzo, 2023), at least two reasons can be identified that substantiate the relevance and usefulness of the exploratory research undertaken here.

In the first place, contemporary South American penal systems are themselves the product of an interaction between their own socio-historical and cultural contexts and the influence of both continental European and Anglo-Saxon legal traditions (Matus Acuña, 2008; Sozzo, 2023; Zaffaroni, 1988). This reality has given rise to a distinctive process through which South American jurisdictions have received, transplanted and adapted the penal institutions of the Global North into their own legal orders. There are various studies that highlight the influence that the criminal justice systems of the Global North, particularly those of continental Europe, have had on the development of South American criminal law systems (Matus Acuña, 2008; Sozzo, 2023; Zaffaroni, 1988). In this regard, one of the key findings of this research is that, on numerous occasions, this foreign influence has resulted in the uncritical importation of penal institutions from the North to the South, rather than

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encouraging a process of reflection on how these might be adapted to the national context (Aliverti et al., 2021; Hurtado Pozo, 1979; Sozzo, 2023; Zaffaroni, 1989).

Secondly, dismissing the applicability of the RIMES instrument in the South American context a priori, without testing this empirically, forecloses the possibility of enriching the debate on comparative penal policy at both the South American and international levels. Moreover, whilst adopting such a position may well reinforce, at a merely declarative level, the need to produce knowledge from the Global South, it foregoes the opportunity to draw on tools already operative in other settings and to explore their potential contribution in different contexts (Aliverti et al., 2021; Sozzo, 2023). Furthermore, this confines the debate to the prescriptive realm (what ought to be done) while setting aside the propositional realm: the development of alternative approaches to comparative penal policy from a Southern Criminology perspective (Aliverti et al., 2021; Iturralde, 2024; Sozzo, 2023).

In this regard, the exploratory application of the RIMES instrument in South America could lead to three possible outcomes. The first could be to confirm that it is applicable across South American jurisdictions. The second outcome could be to find out that this tool is not applicable for comparisons beyond the Global North. Finally, the third scenario could be a partial application of RIMES, identifying elements to adapt in order to improve the intra- and extra- regional comparison.

3.2 Sample and Data Collection Strategy

The exploratory application of RIMES has been carried out within the criminal justice systems of four South American countries: Argentina, Chile, Colombia and Peru. This selection was based, firstly, on the influence that continental European and, to a lesser extent, Anglo-Saxon criminal justice systems have exerted on the configuration of their South American counterparts. However, it is important to note that each of these countries has received and adapted the foreing influences according to their unique social, political, economic and cultural characteristics (Iturralde, 2022; Sozzo, 2017, 2026; Zaffaroni, 1982). Secondly, the complexity of the South American context contributes to consolidating the strengths of RIMES for international comparison and enriching the penal policy discussion.

Engaging in comparative research on penal systems is an inherently challenging endeavour (Nelken & Hamilton, 2022a). It is therefore important to bear in mind that the characteristics of penal systems are embedded within specific cultural contexts, which demand an understanding of the internal logic of each system as well as the ways of thinking of those who operate within them. Reflection on these aspects forms part of a contextualized and realistic approach to the penal systems under comparison. Such an approach enables the researcher to recognize the shortcomings and strengths of each penal system – features that must be carefully specified and accounted for in order to enrich the comparative exercise (Nelken, 2010).

For this study, the strategies of situated research and going native were employed in order to engage with the South American penal systems under comparison (Nelken, 2010). To this end, I spent moderate periods of time (two or three months) in Chile, Colombia and Argentina. In the case of Peru, I undertook a stay of one and a half months; however, the fact that I myself originate from that country afforded me a richer set of tools for a critical

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engagement with its penal system. These research stays were conducted between 2021 and 2023, which allows the exploratory application of the RIMES instrument in the South American context to be characterised as a cross-sectional exercise (Baz y Bartolomé, 2019). Accordingly, the aim was to address all 39 items of the RIMES across the selected penal systems within the aforementioned time period.

With regard to the strategies employed to complete the items within the South American context, it is worth highlighting the value of the protocols and the expertise that I acquired as part of the team in charge of applying RIMES across European and North American jurisdictions. Documentary review was thus employed to address those items corresponding to rules. More specifically, normative texts, handbooks on the characteristics and functioning of the South American penal systems under analysis, as well as binding national and supranational case law relevant to each jurisdiction, were consulted.

Documentary review was likewise employed for those items corresponding to the practices included in the instrument; in this case, this review consisted of consulting empirical studies related to the specific dimension of the penal system it addresses. Secondary sources were also drawn upon, such as institutional databases and statistical compendiums from the various bodies comprising each penal system, namely, the police, judicial, custodial and juvenile justice spheres, in each country under analysis.

In the specific case of addressing item 107, which concerns the disclosure of personal data of ex-offenders in the media, content analysis of news articles was employed to identify and classify those that met the requirements of this item. These were retrieved using *ProQuest International News stream database*, taking as a reference point the three years preceding the date on which the information was extracted, or the three most recent years for which data were available.

Finally, as was the case in the international application of the RIMES across Europe and North America, experts were consulted, both academics and practitioners from the various agencies comprising the penal systems under analysis. Their professional backgrounds included professors of penal law, as well as judges, prosecutors and officials within the judicial system. They provided input in order to confirm the appropriate interpretation of domestic legislation, the scope of particular judicial decisions, or the correct reading of institutional statistical data.

3.3 Methodological challenges

In the course of the exploratory application of RIMES across the South American jurisdictions under analysis, methodological challenges were encountered (Prado-Manrique, 2026a). It is worth noting that some of these coincide with those that arose during the instrument's application across European and North American jurisdictions (Arenas-García, 2024).

One was related to the absence of up-to-date or disaggregated data on specific items. The first strategy adopted to overcome this challenge was requesting information through the transparency portals of the countries under study. This was the case, for instance, in Chile with regard to the resolution of item 50, concerning the actual length of time served in

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custody by persons sentenced to life imprisonment. As there was no specific information about it, I submitted a request for access to information to Gendarmería de Chile.

The second strategy was consulting experts. This was particularly the case for those items that are practices, such as item 25, which concerns the number of convicted persons suffering from some form of mental disorder who are serving their sentence within ordinary custodial establishments; or item 68, which seeks to establish whether family or intimate visits in prison actually take place at intervals of over one month.

Finally, a further difficulty encountered during this exploratory exercise was of a linguistic nature. The items comprising RIMES and their descriptions are drafted in English (García España & Cerezo, 2024b). This required identifying the appropriate functional equivalent of the various penal, procedural, or administrative institutions provided for by the RIMES instrument within the domestic legislation of the South American legal orders under analysis. To this end, bibliographic sources were reviewed and experts from each country were consulted.

4. Results

4.1 General Results

The results of this exploratory exercise demonstrate various aspects related to the strengths of RIMES for international comparison. According to the RIMES methodology, for the instrument to be considered implemented in a jurisdiction, at least 37 of the 39 items it comprises must be addressed (Proyecto RIMES, 2018). In the case of South American criminal justice systems, all the items in each jurisdiction were answered (Prado Manrique, 2026b). Therefore, having passed the aforementioned threshold allows for delving deeper into the results obtained in South American jurisdictions.

Of the territories examined, the Peruvian criminal justice system has the highest percentage of items answered in the affirmative (48.7%), while the Colombian system has the lowest, with 33.3%. Likewise, the South American results show a greater concentration of social exclusion in penal practices, particularly in the implementation of legal provisions. Argentina and Peru are noteworthy in this regard, with the highest percentages of socially exclusionary practices, 81.8% and 72.7% respectively. This finding is consistent with the extensive body of literature highlighting that the exclusionary effects of South American penal systems are discernible in the implementation of their domestic legislation (Ariza & Iturralde, 2011; Bergman & Fondevila, 2021; Hathazy & Müller, 2016).

In the normative sphere, South American jurisdictions would not exceed, or would slightly exceed, one third of affirmative responses, with Peru standing out as the territory with the highest proportion of socially exclusionary rules (39.3%) (Prado Manrique, 2026b). This finding is in line with the literature highlighting the incapacitative tendency of Peruvian penal legislative policy, specifically in the drafting of its laws (Prado Manrique, 2020; Prado Saldarriaga, 2016; Urquizo Olaechea, 2008). That said, these findings merely reflect the exclusionary nature of domestic penal legislation as measured by the rules included in the RIMES instrument. These rules do not necessarily encompass all the socially exclusionary

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penal-legislative interventions that characterize the jurisdictions under analysis, and which have been addressed by other studies (Iturralde, 2022; Sozzo, 2017, 2026; Zaffaroni, 1982).

The aforementioned data permit to consider preliminarily the incorporation of the results of the said countries into the continuum of socially exclusionary criminal justice systems already included in the RIMES. Consequently, to assess their performance in order to achieve the aim of this paper. To this end, the findings of the exploratory application of RIMES in South America may be grouped around three elements that allow for an appraisal of the instrument's potential for the international comparison of penal systems from the perspective for social exclusion: i) its discriminating capacity; ii) the overall penal social exclusion score, including that of each of the pools; and iii) the disaggregated score for each South American jurisdiction (Prado Manrique, 2026b). Given space constrains, this paper will address only the findings relating to the first of these elements: discriminating capacity.

4.2 Discriminating Capacity of RIMES

The discriminating capacity of RIMES may be understood as its strength in establishing distinctions between the various jurisdictions under analysis on the basis of their more or less socially exclusionary character (Díez Ripollés, 2022; García España & Cerezo Domínguez, 2024a). Appraising this element on the basis of the exploratory findings in South America contributes to examining the instrument's usefulness for comparative penal policy at a broader geographical level. Specifically, this involves identifying items or areas currently included in RIMES that may be over-represented or inadequately reflected in territories other than those for which the instrument was originally designed

In this regard, RIMES´ discriminating capacity may be appraised in the basis of three elements: i) the overall penal social exclusion score obtained by the jurisdictions in which the instrument has been applied, which allows their placement along a scale and their possible concentration at one of the extremes of the penal social exclusion continuum; ii) the distribution of responses within each pool, to verify whether these cluster toward affirmative or negative responses; and iii) the number of non-discriminating items, that is, those items to which all or the majority of the penal systems under analysis gave the same response, and whose suitability or relevance for detecting socially exclusionary penal manifestations might warrant reconsideration. Furthermore, this paper aims to enrich the discussion regarding the usefulness and applicability of the instrument for the international comparison of criminal justice systems, through an analysis by groups of jurisdictions in light of the exploratory findings in the South American context.

With the foregoing in mind, and for analytical purposes, I established three broad groupings of jurisdictions to organise the presentation of the findings and support their critical appraisal. The first grouping comprises the South American jurisdictions: Argentina, Chile, Colombia, and Peru; the second, the continental European jurisdictions: Finland, Spain, Italy, Poland, Germany, Romania, Portugal, and France; and the third one is composed of the Anglo-Saxon territories: England and Wales, New York, California, Texas, and Florida. I acknowledge that each grouping reflects distinct legal and penal control traditions, notwithstanding the existence of transitional cases between one grouping and

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another across certain jurisdictions. That said, I recognise the value of grouping jurisdictions to discuss the discriminating capacity of the RIMES instrument.

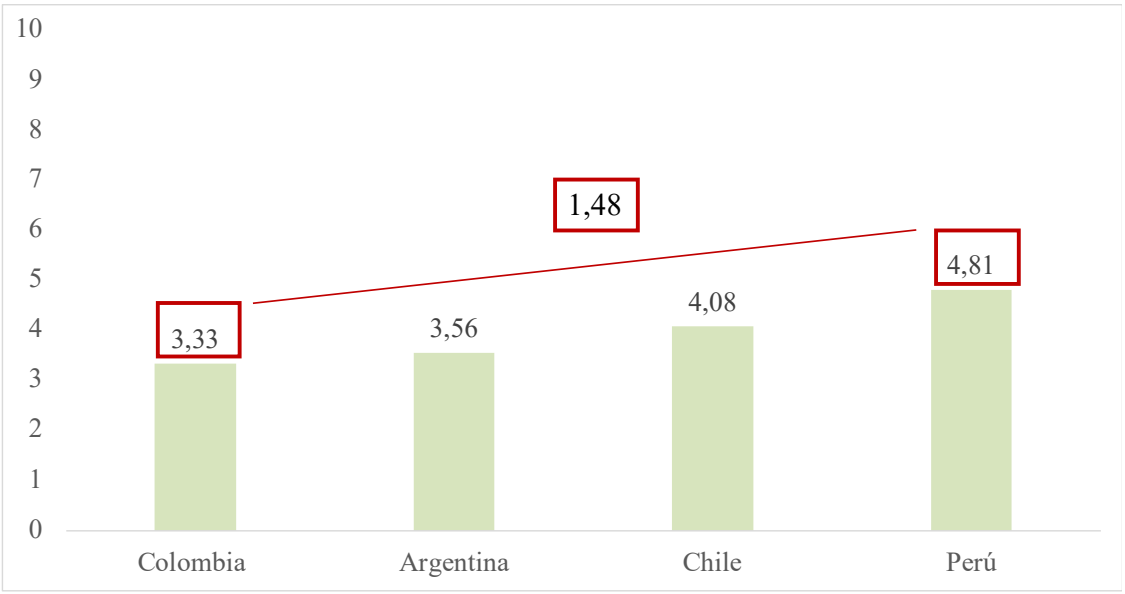
It should be noted that figures incorporating data on South American penal systems will be displayed in a lighter shade than those referring exclusively to the European and United States jurisdictions. I adopted this decision to signal the exploratory nature of this exercise. In doing so, I aim to bring to light two considerations: on the one hand, the need to appraise the reliability of the findings obtained with a view to their possible incorporation into the RIMES continuum of socially exclusionary penal systems; and, on the other, the need to assess the applicability of the instrument across diverse geographical contexts.

4.2.1 Overall penal social exclusion score

In the first instance, it is appropriate to appraise the discriminating capacity of the RIMES instrument on the basis of the overall social exclusion score obtained by each jurisdiction. This score is the result of the sum of the Aiken's V coefficient of the items addressed affirmatively in each territory (Arenas-García, 2024).

First, the scores' analysis obtained by the South American jurisdictions indicates that these would appear to cluster within a relatively narrow range of values, as shown in Figure 1. The Colombian penal system would be the least socially exclusionary jurisdiction, with a score of 3.33, whilst the Peruvian represents the most socially exclusionary, with a score of 4.81 out of 10, the difference between them amounting to 1.48 points. This narrow interval between the two scores offers an initial indication of the instrument's limited discriminating capacity to identify the differences or nuances in the socially exclusionary manifestations of penal intervention within the South American context.

Figure 1. *Overall social penal exclusion score: South American Jurisdictions*



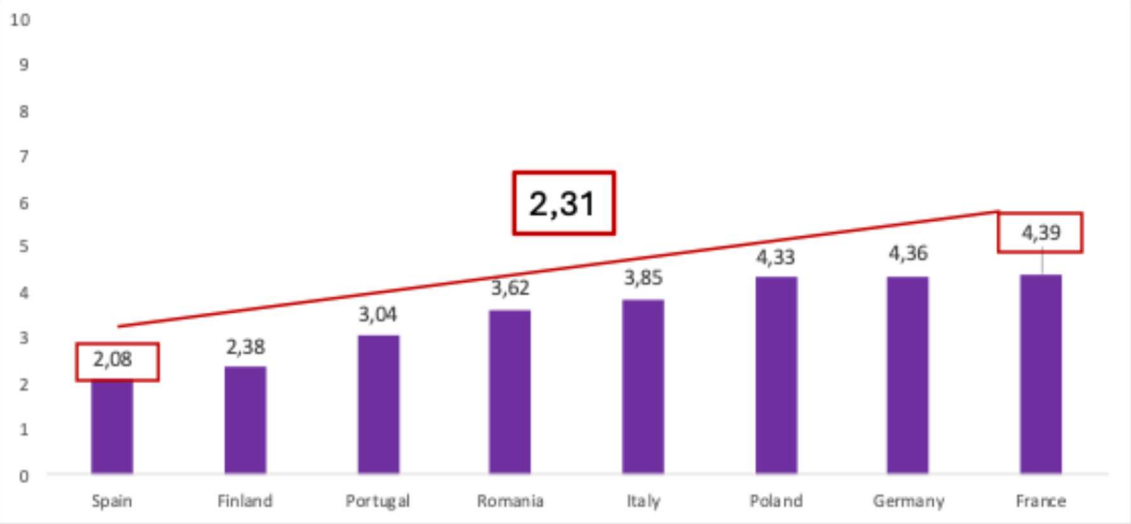
Own elaboration based on primary data

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Second, turning to the continental European jurisdictions, their scores are distributed across a slightly wider range of values than those recorded in the South American context. The gap between the least socially exclusionary penal system - Spain, with a score of 2.08 out of 10- and the most socially exclusionary – France, with a score of 4.39 – amounts to 2.31, as may be observed in Figure 2.

Figure 2. *Overall penal social exclusion score: continental European jurisdictions*



Own elaboration based on data from the AP-RIMES and AP-RIMES+ projects

Third, as regards the Anglo-Saxon jurisdictions, their overall penal social exclusion scores are higher than those recorded in the other penal systems under analysis. Across all territories within this group, scores exceed the midpoint of the scale (5 out of 10), ranging from 6.23 (England and Wales) to 8.16 (Florida). Here, the gap between the most socially exclusionary penal system (Florida) and the least (England and Wales) amounts to 1.9 (Figure 3).

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Figure 3. *Overall penal social exclusion score: Anglo-Saxon jurisdictions*



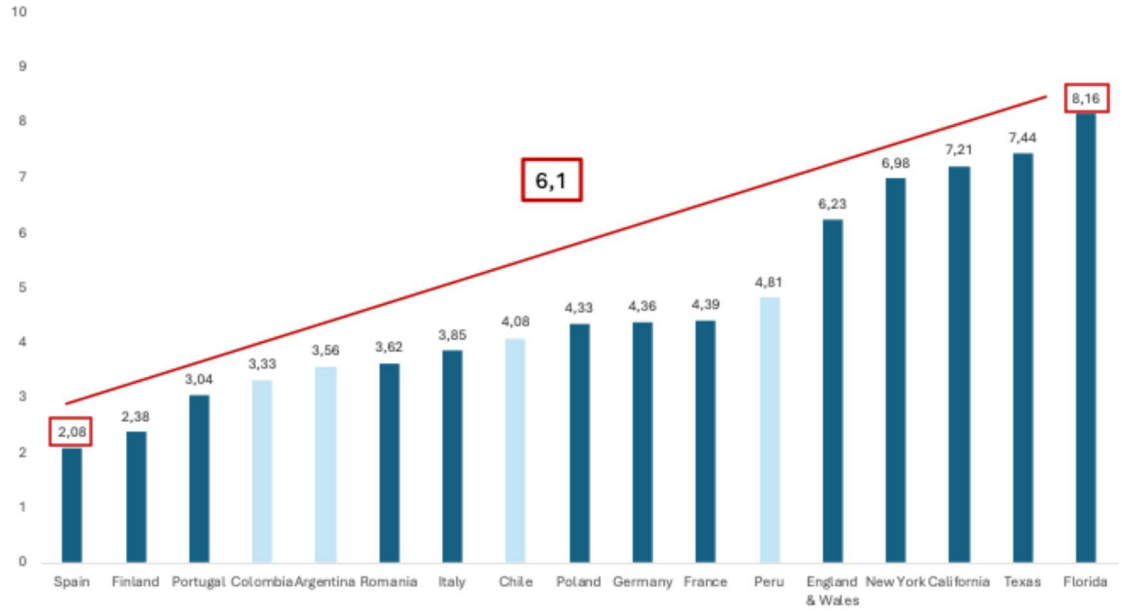
Own elaboration based on data from the AP-RIMES and AP-RIMES+ projects

Finally, if the analytical lens is widened to encompass all seventeen penal systems included in this paper, to which RIMES has been applied, whether in its definitive or exploratory form, a marked picture emerges. As may be observed in Figure 4, the range between the least (Spain) and most socially exclusionary penal systems (Florida) amounts to 6.11 points out of 10, a figure wider than that obtained when systems are analysed by jurisdictional grouping. On this provisional scale of socially exclusionary penal systems, the South American jurisdictions would appear to occupy an intermediate position relative to their continental European and Anglo-Saxon counterparts.

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Figure 4. *Overall penal social exclusion score: All jurisdictions*



Own elaboration based on primary data and data from the AP-RIMES and AP-RIMES+ projects

4.2.2 Distribution of responses across each pool

A second element for appraising the discriminating capacity of the RIMES instrument is the pattern of response distribution across each pool. Specifically, the aim is to verify whether responses to the items in each area of penal system cluster toward affirmative or negative answers. This makes it possible to establish how well each item pool discriminates between the jurisdictions under analysis.

Figure 5 presents the findings for the South American countries. It is possible to identify four pools with high discriminating capacity, given that the distribution of their positive and negative responses ranges within a ratio of 50%-50% or 40%-60%. The items pertaining to the control of public spaces (pool 1), harshest penalties (pool 4), preventive intervention (pool 6), and the legal and social status of offenders and ex-offenders (pool 7) that make up RIMES would appear to enable distinctions to be drawn between the South American jurisdictions. Hence, consideration may be given to their potential usefulness in identifying penal policy characteristics of a more or less socially exclusionary nature within this geographical context.

In turn, three pools would appear to exhibit limited discriminating capacity: prison rules (pool 5), police and penal records (pool 8), and youth criminal justice (pool 9). Of these, particular attention is drawn to the low percentage of affirmative responses obtained in the pool on prison rules, which would amount to only 12.5%, whilst that of negative responses would stand at 87.5%. This finding would appear to suggest that, according to the items comprising this pool, the prison systems of the South American jurisdictions would be

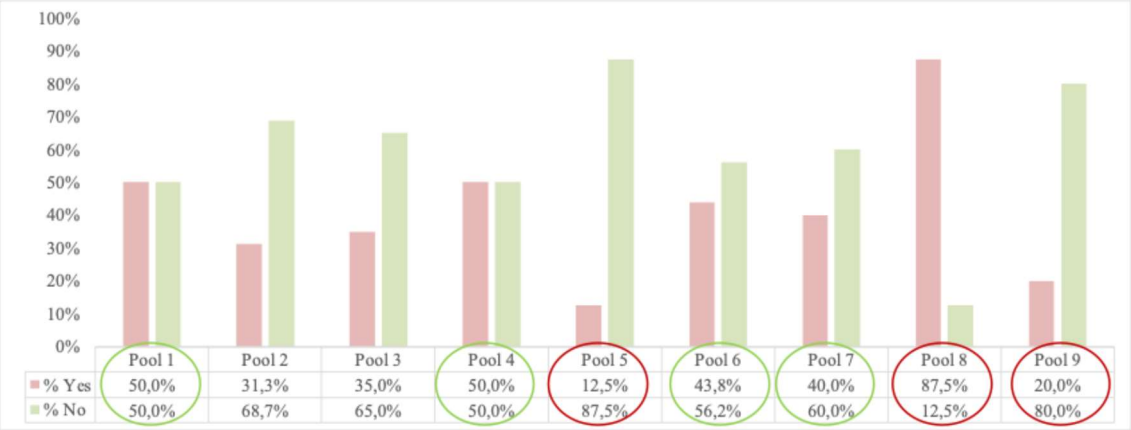
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scarcely exclusionary in character. This stands in notable contrast to what other studies have found regarding this area of intervention (Bergman & Fondevila, 2021; Hathazy & Müller, 2016; Nuñovero, 2019).

Furthermore, and in the opposite direction to the preceding pool, the markedly exclusionary nature of the rules and practices associated with police and penal records (pool 8) is noteworthy, with 87.5% of responses would be affirmative. This points to certain socially exclusionary penal policy trends in this area across the South American penal systems under analysis.

Figure 5. *Distribution of responses across each pool: South American jurisdictions*



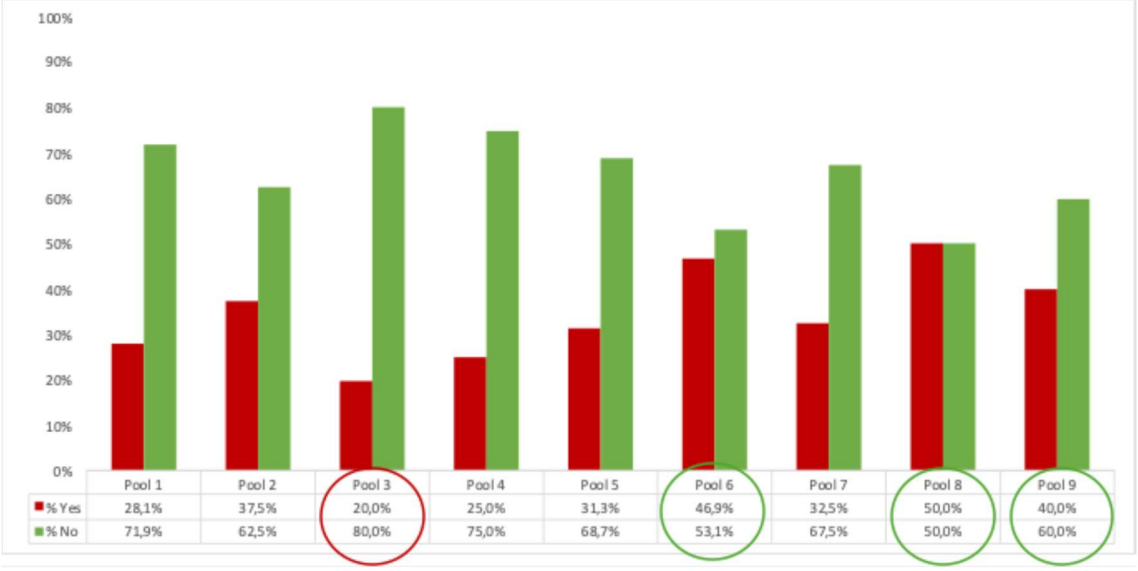
Own elaboration based on primary data
Note: n of South American jurisdictions: 4

Figure 6, in turn, reflects the distribution of responses across the continental European context. The findings indicate, on the one hand, three pools with high discriminating capacity (40%-60%): preventive intervention (pool 6), police and penal records (pool 8), and youth criminal justice (pool 9). These findings diverge in part from those obtained in respect of the South American jurisdictions, where pools 8 and 9 would appear to have limited discriminating capacity. On the other hand, it is noteworthy that the pool covering sentencing and sanctions systems (pool 3) shows the lowest discriminating capacity within these groups of jurisdictions.

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Figure 6. *Distribution of responses across each pool: European Continental jurisdictions*



Own elaboration based on data from the AP-RIMES and AP-RIMES+ projects
Note: n of European Continental jurisdictions: 8

When the distribution of responses across the Anglo-Saxon jurisdictions is examined, it is noteworthy that three pools would display high discriminating capacity: that of legal safeguards (pool 2), sentencing and sanctions systems (pool 3), and the legal and social status of offenders and ex-offenders (pool 7). However, three pools would appear to concentrate the highest proportion of their responses in a single direction – whether affirmative or negative- namely, those pertaining to the control of public spaces (pool 1), police and penal records (pool 8), and youth criminal justice (pool 9) (Figure 7).

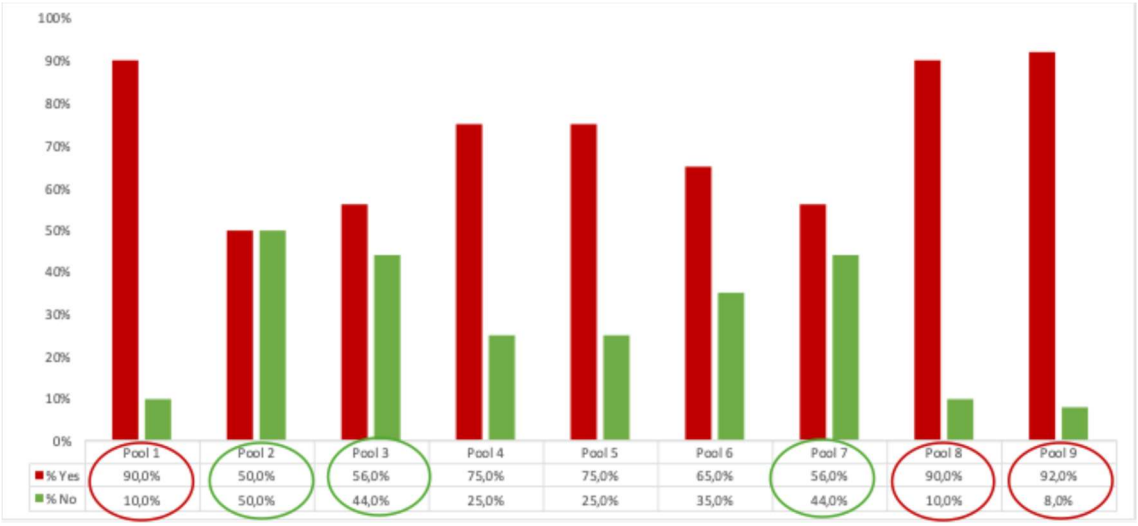
In this regard, it is worth noting that pools 8 and 9 are two of the least discriminating pools, as is also the case in the South American context, although not necessarily in the same socially exclusionary sense with respect to penal intervention. Across both geographical settings, a trend towards greater penal social exclusion is discernible in relation to police and penal records (pool 8); whereas in the area of youth criminal justice (pool 9), the Anglo-Saxon penal systems would appear to be more socially exclusionary than the South American systems under analysis.

It is also relevant to consider that the pool comprising items that address the control of public spaces (pool 1) proves to have limited discriminating capacity within Anglo-Saxon penal systems, where its trend towards penal social exclusion is particularly marked. This contrasts with the situation observed across South American and continental European jurisdictions, where this pool exhibits a more pronounced discriminating capacity.

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Figure 7. *Distribution of responses across each pool: Anglo-Saxon Jurisdictions*



Own elaboration based on data from the AP-RIMES and AP-RIMES+ projects
Note: n of Anglo-Saxon jurisdictions: 5

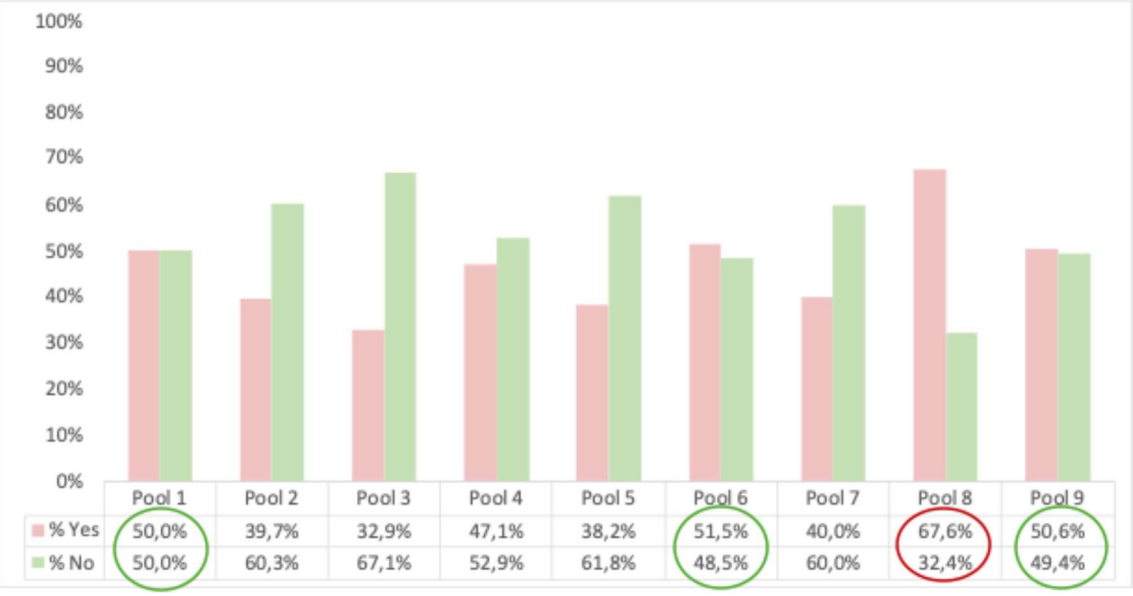
Finally, when the distribution of pool responses is examined across all seventeen jurisdictions (Figure 8), it can be observed that the number of pools with a high discriminating capacity increases markedly. Specifically, seven pools are identified in which the concentration of affirmative or negative responses falls within a proportion of 50%-50% or 40%-60%. These would be the pools of control of public spaces (pool 1), legal safeguards (pool 2), harshest penalties (pool 4), prison rules (pool 5), preventive intervention (pool 6), the legal and social status of offenders and ex-offenders (pool 7), and youth criminal justice (pool 9). From the foregoing, it may be appreciated that pools which proved to have limited discriminating capacity within certain groups of jurisdictions – such as pools 1 and 9 in the Anglo-Saxon context- would in fact prove discriminating when a greater diversity of penal systems is brought under analysis.

In turn, these findings also indicate that only one pool, that concerned with police and penal records (pool 8), shows limited discriminating capacity across the full range of jurisdictions considered thus far, given that approximately 70% of its responses are affirmative. Even so, it discriminates better in this broader analysis is greater than in the South American and Anglo-Saxon jurisdictions, where this limitation has previously been noted.

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Figure 8. *Distribution of responses across each pool: Total of jurisdictions*



Own elaboration based on primary data and data from the AP-RIMES and AP-RIMES+ projects
Note: n of jurisdictions: 17

4.2.3 Non-discriminating items

The third element to assess the discriminating capacity is the non-discriminating items, that is those answered in the same way, either affirmatively or negatively, by all or the majority of the jurisdictions. In the case of the South American jurisdictions, 21 of the 39 items (53.85%) of the instrument would be non-discriminating. On the one hand, the items addressed affirmatively by all four penal systems under analysis would number 7, comprising 3 practices and 4 rules. These would represent socially exclusionary penal interventions identified, on an exploratory basis, across all the South American countries covered by this study. These belong to the pools of control of public spaces (item 11), sentencing and sanctions system (item 37), preventive intervention (item 82), legal and social status of offenders and ex-offenders (items 88 and 91), and police and penal records (items 99 and 107).

On the other hand, this exploratory exercise indicates that 14 items were addressed negatively across all the South American legal orders examined, all of them being socially exclusionary rules that are absent from the domestic legislation of the countries under analysis. These are distributed across the areas of legal safeguards (items 21 and 22), sentencing and sanctions system (item 33), harshest penalties (item 43), prison rules (items 62 and 64), preventive intervention (items 74 and 81), legal and social status of offenders and ex-offenders (items 86, 92 and 93), and youth criminal justice (items 113, 117 and 120).

The proportion of non-discriminating items decreases substantially across continental European jurisdictions. Within this group of penal systems, only 8 of the 39 items were non-discriminating, accounting for 20.51% of the instrument. Of these, only one socially exclusionary rule pertaining to the security detention pool was answered in the affirmative across all eight European jurisdictions under analysis (item 79).

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Conversely, items answered in the negative amounted to 7 across these jurisdictions. All of these were rules, distributed across the following areas of penal intervention: the control of public spaces (item 2), the sentencing and sanctions systems (items 33 and 36), harshest penalties (item 42), preventive intervention (item 82), and the legal and social status of offenders and ex-offenders (items 92 and 93).

A distinct picture emerges across Anglo-Saxon jurisdictions. Within this group of penal systems, the proportion of non-discriminating items is higher than in the South American context, amounting to 58.97% and accounting for 23 of the 39 items comprising RIMES. Of these, 19 items were answered in the affirmative by all jurisdictions within the group, comprising 7 practices and 12 rules, with at least one item present in each pool of the instrument. Among these, the youth criminal justice pool (items 113, 117, 120 and 126) exhibits the greatest number of non-discriminating items in the exclusionary sense.

In turn, the socially exclusionary items answered in the negative within Anglo-Saxon penal systems amount to 4, among which there is one practice pertaining to the preventive intervention pool (item 82). The remaining three rules fell within the areas of the sentencing and sanctions systems (item 33) and the legal and social status of offenders and ex-offenders (items 86 and 93). It is worth noting that two of these items (items 33 and 93) were equally identified as non-discriminating within the other two groups of jurisdictions established for the purposes of analysis.

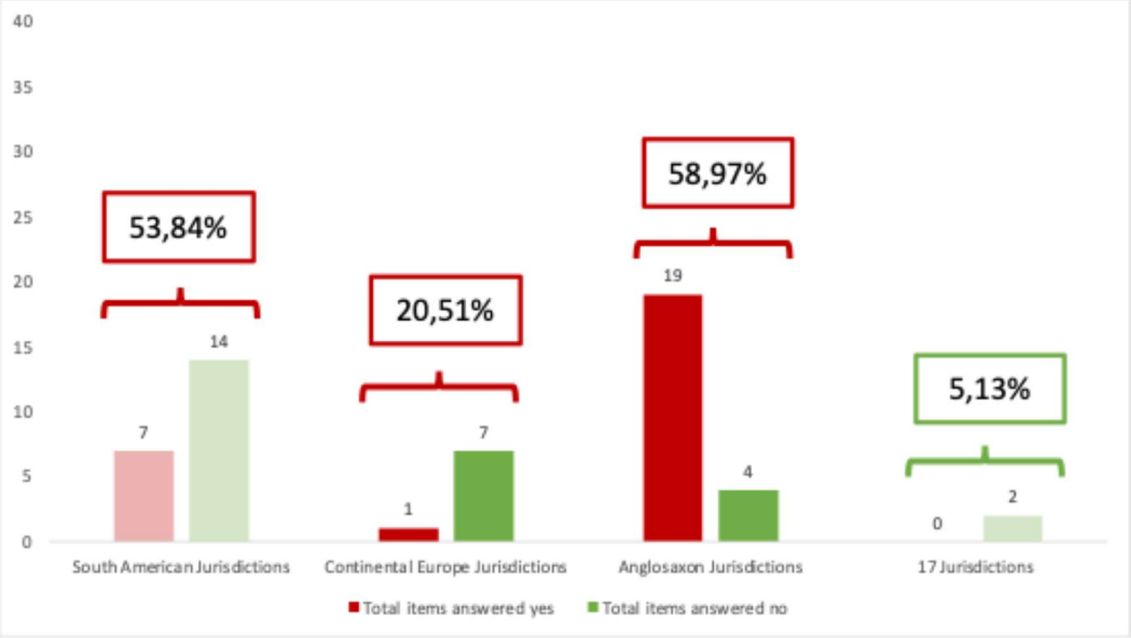
Finally, and as with previous assessments, the judgement as to the discriminating capacity of the items varies considerably when the data from the seventeen jurisdictions in which RIMES has been applied are analysed jointly. On the one hand, only 2 of the 39 items would prove to have no discriminating capacity, representing that only 5.13% of all the rules and practices comprising the instrument were answered in the negative across every jurisdiction. Specifically, these would be item 33 and item 93, belonging to the areas of the sentencing and sanctions systems (pool 3), and the legal and social status of offenders and ex-offenders (pool 7), respectively. These items relate to the absence of any legal provision for the suspension of sentence or the deferral of judgment (item 33) and to the denial of access to social benefits for persons with previous convictions (item 93).

On the other hand, it may be established that there is no rule or practice contained within RIMES that is universally exclusionary, that is to say, one that would have been answered in the affirmative by all the jurisdictions under analysis. All of the foregoing would indicate that more than 90% of the items comprising the instrument would be capable of discriminating between the various jurisdictions studied, in contrast with the lower proportions obtained for groups of jurisdictions (Figure 9).

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Figure 9. *Total of non-discriminating items, by group of jurisdictions*



Own elaboration based on primary data and data from AP-RIMES y AP-RIMES+ projects

Finally, the analysis of the discriminating capacity of the items across the seventeen jurisdictions also makes it possible to identify those which, whilst proving to be discriminating, concentrate a large proportion of their responses, in the affirmative or the negative. In this regard, it is worth noting three socially exclusionary items that would be answered in the affirmative across sixteen of the seventeen penal systems under analysis, thereby rendering visible certain penal policy trends. These would belong to the pools of preventive intervention (item 79) and on police and penal records (items 99 and 107).

5. Discussion

The aim of this paper was to assess the applicability of RIMES for the international comparison of penal systems through the lens of penal social exclusion. For this, I carried out an exploratory application in South American criminal justice systems. This exploratory exercise may give rise to three possible scenarios. The first would be to verify that the instrument is effective in identifying manifestations of penal social exclusion across South American jurisdictions and in comparing them with jurisdictions beyond the region. Therefore, it would be capable of comparing criminal justice systems outside the Global North. The second would be to establish its limitations in capturing penal social exclusion within the penal systems in South America, thereby discarding its usefulness for both intra- and extra-regional comparison. The third scenario would be to confirm RIMES' partial applicability, recognising its elements that are well suited to the examination of social exclusion within the penal responses of South American countries, and to their subsequent

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comparison with jurisdictions in other geographical contexts. Furthermore, in this last scenario, the findings could suggest specific aspects, like pools or items, which would need to be adapted in order to improve and consolidate RIMES' capacity for the purposes of the intended intra- and extra- regional international comparison.

The findings suggest the third scenario. The analysis of RIMES' discriminating capacity constitutes a first step towards appraising its partial applicability in contexts other than those for which it was validated, such as the South American context. Likewise, this exercise affords an opportunity to reflect more broadly on its penal policy potential as an instrument for the international comparisons on penal systems.

In that sense, it would be observed that the discriminating capacity of RIMES would be limited in distinguish between several degrees of penal social exclusion when applied to criminal justice systems that share legal, penal policy traditions or socio-historical contexts. However, it would increase when analysing a set of different criminal justice systems. Hence, it could be argued that the greater the diversity in the number, geographical and penal policy characteristics of the criminal justice systems analysed, the greater RIMES' ability would be to discriminate between socially exclusionary manifestations. In summary, the tool would perform better in comparing criminal justice systems at the extra-regional level, rather than at the intra-regional level.

This would be reflected in the short interval between the minimum and maximum overall penal social exclusion scores for jurisdictions with similar characteristics. These would tend to be concentrated in a range of values close to each other. However, when the overall penal social exclusion score is analysed for the seventeen jurisdictions in which RIMES has been applied, it would be found to be distributed over a wider range on the penal social exclusion scale. In this case, the range between the least and most socially exclusionary penal systems would be 6.1 out of 10. The foregoing would point towards affirming the suitability of RIMES for international comparison, an argument that has also been discussed by Díez Ripollés (2022) and García España and Cerezo Domínguez (2024a).

The same phenomenon would be observed in the pools whose responses are mostly concentrated in the affirmative or the negative. The number of pools with a high discriminating capacity would be lower in criminal justice systems of geographical areas, penal policy traditions or socio-political contexts that are close to each other, than when the analysis is carried out on the whole of the seventeen jurisdictions in which RIMES has been applied. In the latter case, eight of the pools would have a high discriminating capacity, including those that would not have been discriminating in certain groups of criminal justice systems, such as the control of public spaces (pool 1) and youth criminal justice (pool 9) in the Anglo-Saxon jurisdictions; only the pool pertaining to police and penal records (pool 8) would have little discriminating capacity. This would further confirm the usefulness of most of the dimensions of the criminal justice system included in RIMES for international comparison from an extra-regional perspective.

Furthermore, the analysis of the distribution of responses for each pool, both by jurisdiction and overall, would make it possible to identify the contribution of the South American data in two aspects. Firstly, their provisional incorporation would increase the discriminating capacity of the pools, as is the case with that pertaining to preventive

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intervention (pool 6), which, according to García España and Cerezo Domínguez (2024a), had limited discriminating capacity in the European and United States context.

The same is true of the non-discriminating items. The number of such items would be greater in criminal justice systems that share geographical proximity, a common legal tradition or a similar penal policy orientation, than when the analysis covers all seventeen jurisdictions. In the latter case, more than 90% of the items in RIMES would be able to distinguish between different criminal justice systems.

The preceding findings would appear to point to the suitability of RIMES as a tool for the international comparison of criminal justice systems from the perspective of penal social exclusion. Equally, they highlight the usefulness of exploring its applicability in South American penal systems and suggest the advisability of undertaking exploratory applications in other regional contexts. This constitutes a particularly promising avenue for identifying the limitations and strengths of the instrument and thereby enhancing its penal policy potential for international comparison. Finally, the appraisal of the discriminating capacity of RIMES by groupings of jurisdictions would reinforce the advisability of adapting this tool at a regional level in order to advance towards more precise penal policy comparisons.

I acknowledge that this exploratory exercise in South America carries limitations for the comparability of the data employed to address the items and appraise the findings. Nevertheless, I contend that the strategies adopted to compensate for the lack of up-to-date data are, on the one hand, among the most empirically robust means available for approaching the socially exclusionary penal manifestations in the South American jurisdictions analysed. On the other hand, they serve to bring to light those rules, practices, or dimensions of South American penal systems that require disaggregated and up-to-date empirical data, which would make it possible to understand, assess and compare the effects of penal social exclusion both within this context and at the international level.

There were also limitations related to the small sample of South American penal systems selected. Although this group of countries represents an important part of the criminal justice systems in the region, other countries, such as Brazil and Uruguay, need to be included in order to provide a more complete picture of penal policy in the region.

Another limitation of RIMES was in terms of recognising some of the socially exclusionary dynamics of the South American countries studied. These include the configuration of the prison rules (pool 5), which does not seem to consider the peculiarities of the socially exclusionary practices of South American prison systems (Bergman & Fondevila, 2021; Hathazy & Müller, 2016; Nuñovero, 2019).

All in all, and despite the particularities of the South American criminal justice systems and the aforementioned limitations, the results obtained do not prevent us from considering, at least hypothetically, the usefulness of including these countries in the set of criminal justice systems in which RIMES is being applied. This would enrich the extra-regional comparative analysis of penal policy, despite the fact that RIMES was originally designed for developed Western countries. Indeed, the complexity of this construct allows us to consider its application to at least some of the South American countries studied. However, the testing of this last hypothesis will require a more in-depth study.

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Moreover, it is important to stress that the limitations outlined above do not prevent RIMES from being considered as a tool for international comparison of criminal justice systems from the perspective of social exclusion. On the contrary, such limitations can be seen as an opportunity for improvement. On the one hand, this allows for evaluating the shortcomings identified, proposing possible modifications and enriching the design of the instrument and the comparisons made on the basis of its results. For example, exploring the possibility of incorporating an intersectional approach that makes visible the multiple socially exclusionary effects of penal interventions on specific target population. On the other hand, it would also be advisable to extend the application of RIMES to other geographical areas such as Asia or Africa, precisely to continue to assess its usefulness for extra-regional international comparisons of criminal justice systems.

Conversely, the results of this exploratory exercise will allow us to gather input for the design and validation of a sub-instrument for the comparing criminal justice systems from the perspective of social exclusion, but at an intra-regional level, rather than an extra-regional one, with the aim of refining the penal social exclusion contrasts in the aforementioned areas. Likewise, this sub-instrument would make visible specific socially exclusionary penal interventions in some regions, such as the participation of inmates in the maintenance of internal order in some South American prisons.

Finally, the results of this exploratory exercise would make it possible to establish a comparative penal policy, criminological and dogmatic research agenda, both in South America and internationally. With regard to South America, it would be possible to study the reasons that justify socially exclusionary criminal responses in its different countries, as well as to formulate alternatives to mitigate their effects and to promote criminal policies that either promote or, at least, do not hinder the social inclusion of those persons who are the subject of penal intervention.

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