

CRIMINAL LAW IN IBEROAMERICA: PRESENT AND FUTURE PROSPECTS

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Abstract

For the preparation of this article, a documentary review was conducted on the writing and publication of research papers related to the study of Criminal Law in order to know, through a bibliometric study, the main characteristics of 187 publications registered in the Scopus database during the period 2017-2021 in Ibero-American countries. The data provided by this database were organized in graphs and figures, categorizing the information by variables such as Year of Publication, Country of Origin and Area of Knowledge, which allowed to identify, through qualitative analysis, the position of different authors concerning the proposed topic.

One of the main findings of this research was that Brazil stood out as the country with the highest scientific production, leading the list with 66 publications. Likewise, the Knowledge Area that made the greatest

contribution to the construction of bibliographic material related to the study of Criminal Law was Social Sciences, with 153 published documents.

Keywords: Criminal Law, Present, Future perspectives, Iberoamerica.

1. Introduction

This research article refers to Criminal Law, considered one of the most important branches of law since it is “composed of rules that prohibit behaviors and threaten their realization with a penalty” (Meini, 2014). It seeks to direct human behavior based on rules and, in turn, punish non-compliance through punishments imposed on those found responsible for having committed a misdemeanor or crime. All this is to maintain the equality and freedom of individuals who are part of society.

However, with the passage of time and the cultural exchange resulting from globalization, an economic, political and social transformation has been generated that leaves in “evidence the great challenges that criminal science faces as it is the borderline at which security is demanded.” (Pantoja J. E., 2021).

Corruption, impunity and self-favoritism are very common in various territories worldwide. This has led to the creation of multilateral organizations such as the OEI (Organization of Ibero-American States) that seek to work together to achieve progress in the region.

For this reason, this article seeks to describe the main characteristics of the publications found in the Scopus database related to the Criminal Law variable, as well as to understand its present, establish future projections and describe the position of certain authors affiliated to Ibero-American institutions, during the period between 2017 and 2021.

2. General Objective

To analyze from a bibliometric and bibliographic perspective, the elaboration of research papers on the variable Criminal Law registered in Scopus during 2017-2021 by Ibero-American institutions.

Methodology

This article results from a mixed research approach combining quantitative and qualitative methods.

On the one hand, a quantitative analysis of the information selected in Scopus is carried out under a bibliometric approach of the scientific production corresponding to the study of Criminal Law in Ibero-America.

On the other hand, from a qualitative perspective, examples of some research papers published in the area of the study mentioned above are analyzed from a bibliographic approach that allows describing the position of different authors on the proposed topic.

It should be noted that the entire search was conducted through Scopus, establishing the parameters referenced in *Figure 1*.

3.1 Methodological design

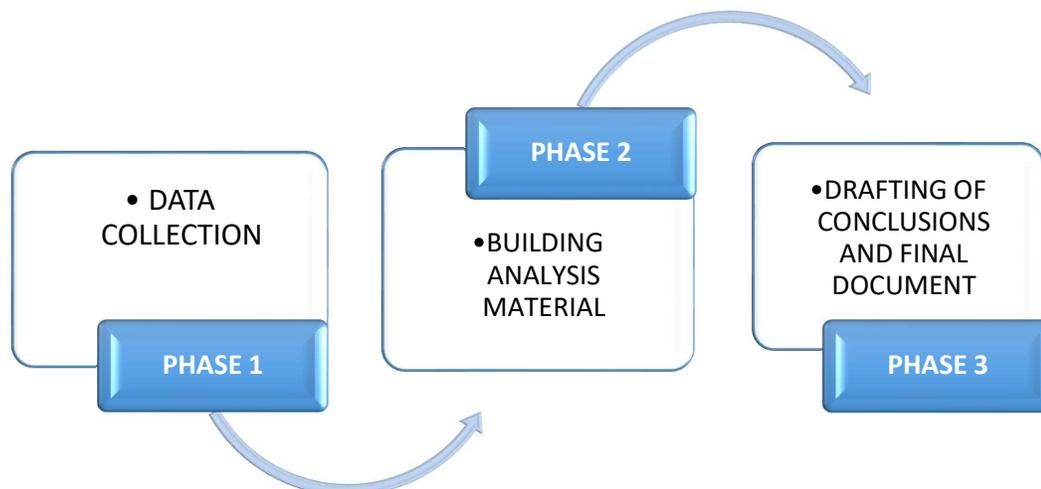


Figure 1. Methodological design

Source: Own elaboration

3.1.1 Phase 1: Data Collection

Data was collected through the Scopus web page search tool, identifying a total of 336 publications. For this purpose, search filters were established consisting of:

- ✓ Published documents whose study variables are related to the study of Criminal Law.
- ✓ Limited to Latin American countries.
- ✓ Without distinction of area of knowledge.
- ✓ Without distinction of type of publication.

3.1.2 Phase 2: Building the analysis material

The information collected in Scopus during the previous phase is organized and subsequently classified using graphs, figures and tables as follows:

- ✓ Word Co-occurrence.
- ✓ Year of publication
- ✓ Country of origin of the publication.
- ✓ Knowledge area.
- ✓ Type of Publication

3.1.3 Phase 3: Drafting conclusions and final document

Finally, the results obtained in the previous phase are analyzed, the conclusions are drawn up, and the final document is prepared.

4. Results

4.1 Co-occurrence of words

Figure 2 shows the co-occurrence of keywords found in the publications identified in the Scopus database.

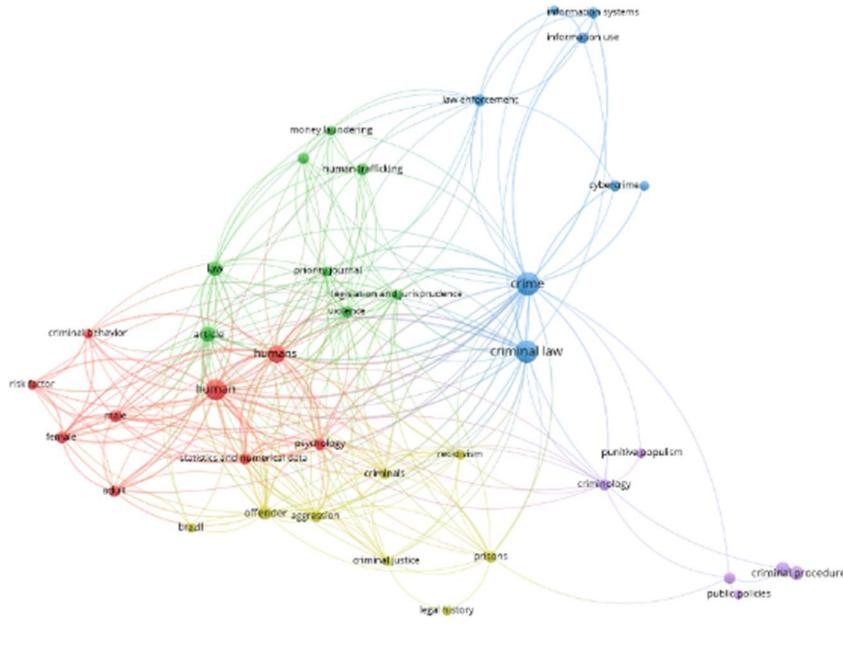


Figure 2. Cooccurrence of words

Source: Own elaboration (2022); based on data exported from Scopus.

After analyzing the information found in Scopus related to the variable Criminal Law, the object of this scientific research, it is possible to determine that in the present, the restrictive and punitive nature that characterizes it is preserved, remaining directly connected with human behavior and the types of sanctions that should be granted according to the offense committed.

Recidivism and Aggressions seem to be defining criminal behavior, and Gender proves to be a risk factor mainly when referring to terms such as Women, Men and Criminal Justice alluding to unequal rights and the high rate of violence against women.

This is why the words Punitive, Public Policies and Criminal Procedures can be interpreted as possible shortcomings of the penal system in not guaranteeing compliance with the rights of all citizens.

On the other hand, we find terms such as cybercrime, money laundering and human trafficking, which, although they are not central to criminal law, the latter should seek to understand their practices better in order to more effectively identify these types of crimes and establish more accurate measures to prevent the evasion of penalties.

4.2 Distribution of scientific production by year of publication.

Figure 3 shows how the scientific production is distributed according to the year of publication, from 2017 to 2021.

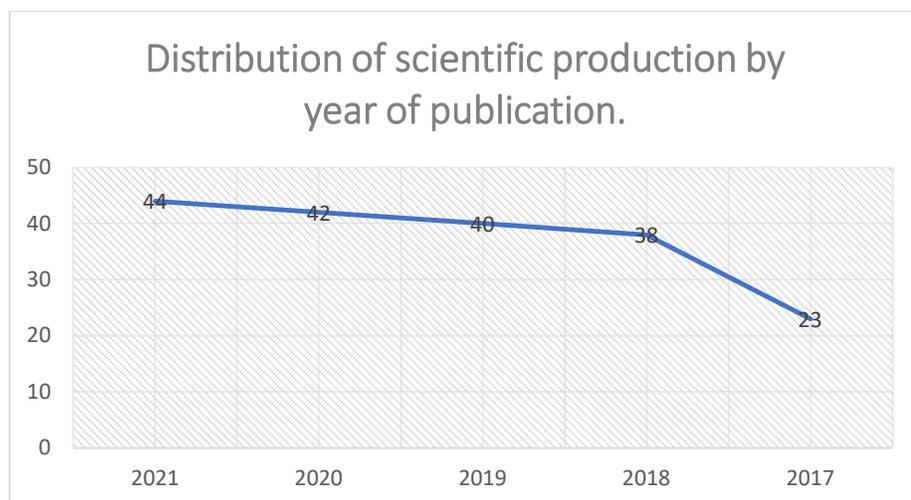


Figure 3. *Distribution of scientific production by year of publication.*
Source: Own elaboration (2022); based on data provided by Scopus.

Figure 3 shows that the scientific production around the variable Criminal Law in the period between 2017 and 2021 experiences a considerable increase from 2018 and maintains this growing trend until 2021, with a total of 44 publications concerning the keywords, among which is the article “*Exculpation as a punitive criterion against crimes related to rebellion in contexts of internal armed conflict: a re-reading of the work of criminal law in peace processes*” (Pantoja J., 2021), whose central focus shows that despite the complexity of resolving internal conflicts through criminal law, due to the constant violation of rights, it could be of great help if the jurist in charge of the process always puts the common good above any personal interest.

This approach could be better understood by looking at the cases of Guatemala, El Salvador and Colombia, member countries of the OEI (Organization of Ibero-American States), which after periods of civil war, were able to put an end to their conflicts by signing peace agreements.

4.3 Distribution of scientific production by country of origin.

Figure 4 shows the distribution of scientific production according to the nationality of the authors.



Figure 4. *Distribution of scientific production by country of origin.*

Source: Own elaboration (2022); based on data provided by Scopus.

Of the 23 Ibero-American countries, Brazil leads the list of published articles with 66 records in the Scopus database concerning Criminal Law during 2017-2021, followed by Spain and Chile with 52 and 23 publications, respectively. Of the latter, the article entitled “*Criminal law and forced marriages - Is the current criminal policy adequate*” (Salat, 2020) stands out, which analyzed whether criminal law was the correct mechanism to provide a solution to cases of abuse, violence, or else request for protection by victims subjected to forced marriages.

After several studies, it was determined that criminal law should seek to understand the real causes that lead to such marriages and what the victims are looking for when they denounce, so it is recommended, according to the case, to resort to alternative mechanisms or orders issued from other branches of law, such as civil law because it is the pursuit of a personal and not collective interest.

At this point, it is important to note that scientific publications are often prepared based on collaborations involving private and public institutions from one or more countries. Therefore, the same publication may be linked to one or more authors with different nationalities, as well as to more than one country simultaneously, making part of the total sum of articles or publications of each one of them in the total sum.

Figure 5 below shows the flow of collaborative work carried out by various countries in greater detail.

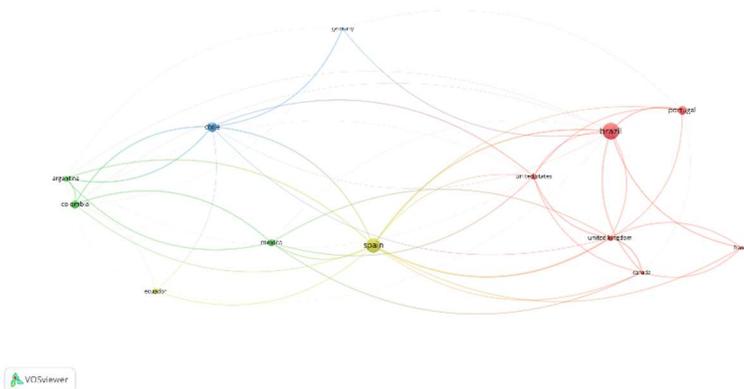


Figure 5. Co-citations between countries.

Source: Own elaboration (2022); based on data provided by Scopus.

Figure 5 shows the research grouping according to the authors' participation in other international institutions. Outstanding participation is evidenced among authors affiliated with institutions from Ibero-American countries such as Brazil, Spain, Chile in collaboration with countries outside the region such as the United States, United Kingdom and Germany.

4.4 Distribution of scientific production by area of knowledge

Figure 6 shows the distribution of the execution of scientific publications according to the area of knowledge through which the different research methodologies are implemented.

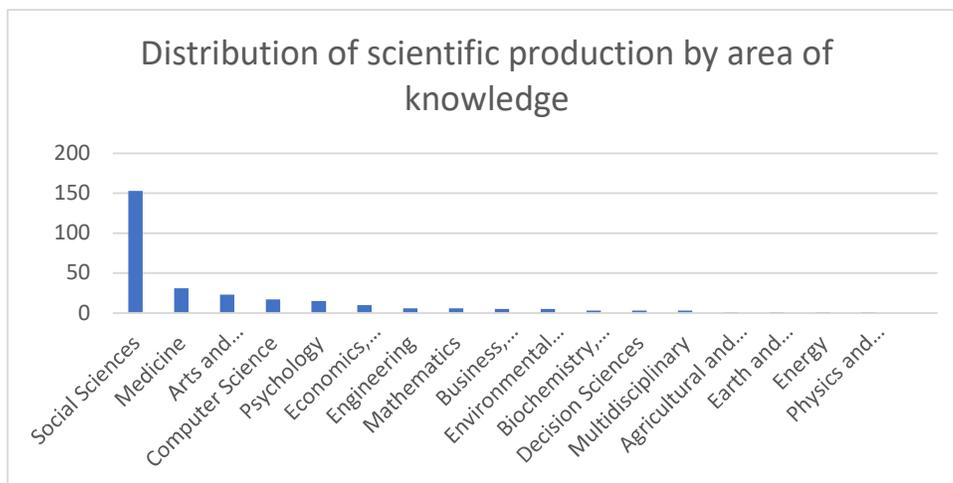


Figure 6. Distribution of scientific production by area of knowledge.

Source: Own elaboration (2022); based on data provided by Scopus.

Given the social nature of the variable Criminal Law, it is not surprising that the area of knowledge with the highest number of publications registered in Scopus was Social Sciences, with a total of 153 documents focused on its study. Followed by medicine with 31 and Arts - Humanities with 23 articles.

Although it may seem strange to relate medicine to criminal law, our study variable seeks medical science

support to identify criminals or offenders through DNA or genetic information linked to a crime scene. This is addressed in the book “Genetic Surveillance and Crime Control: Social, Cultural and Political perspective” (Machado & Granja, 2021). This study confirms that this branch of law is studied in a multidisciplinary manner in Latin American countries, although always to achieve greater effectiveness in criminal proceedings.

4.5 Type of publication

Figure 7 shows the distribution of the bibliographic findings according to the type of publication made by each of the authors found in Scopus.



Figure 7. Type of publication

Source: Own elaboration (2022); based on data provided by Scopus.

Undoubtedly, the most used type of publication in Ibero-America was the journal article, with 75%. This is equivalent to more than half of the total number of publications.

In second place was a review, with 14%, and in third place were conference papers, with 6%. Of the latter category, the following paper stands out “Identifying crime suspects in social networks: a vocabulary-based method” (Florentino et al., 2020), where the authors propose the need to implement a mechanism containing a specific vocabulary, previously categorized and unlabeled, to analyze messages from social networks to identify suspects involved in cybercrimes.

5. Conclusions

Finally, the following conclusions were reached after the bibliometric analysis in this research work.

On the one hand, Brazil is the Ibero-American country with the highest number of publications registered in the Scopus database during 2017-2021, ranking first in the list with 66 documents.

On the other hand, it became evident that the social sciences continue to be at the forefront of research related to criminal law in Ibero-America. This is the result of the continuous struggle of Ibero-American countries to improve basic and indispensable issues such as education, culture, human rights protection, and the need to

adjust criminal procedures to current times.

Likewise, it is observed that although criminal law can be approached from different areas of study, at present, they are interested in achieving a better understanding of human behavior by identifying causes that lead to acting in a certain way. This, in turn, exposes the inability of criminal law to provide fair penalties and, therefore, people's dissatisfaction with the decisions taken by the system.

Taking into account the above and the emergence of a new typification of crimes, it could be assured that the study of Criminal Law in the future will be directed to implementing various reforms involving other branches of law to provide solutions to problems that afflict the Ibero-American community. In other words, Criminal Law should "seek to preserve and consolidate what has been advanced in the construction of a world order based on shared rules and values, together with a policy structured on international values and principles" (Travieso et al., 2021).

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