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TOWARDS THE GENDER PERSPECTIVE AS A LEGAL RIGHT IN SEXUAL MATTERS: SECURITY IN SEXUAL EQUALITY

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ABSTRACT

The study analyzes the evolution of the legal treatment of sexual crimes in Spain, with a particular focus on the incorporation of a gender perspective as an ancillary right to sexual freedom. In consequence of the amendment stipulated by Organic Law 10/2022, which ensures comprehensive sexual freedom, the transition from a paradigm that prioritizes sexual self-determination to an approach that incorporates equality and security as integral components of protection is currently under examination. A methodology is employed that integrates the examination of doctrine, the evaluation of jurisprudence, and the aggregation of statistical data from both domestic and international sources. The findings indicate that the gender perspective is established as a key principle that redefines the meaning of sexual freedom, creating a legal framework that seeks to more effectively protect historically marginalized groups, especially women and minors. However, this transformation generates conflicts with traditional principles of criminal law, such as the presumption of innocence and in dubio pro reo, which sometimes seem to take a back seat to the pro feminae principle. In conclusion, although the legislative amendment constitutes progress towards true equality, it also provokes a debate in the doctrine on the limits of criminal law as a means of combating discrimination and sexual violence. A review of the extant research indicates that the consideration of sexual safety and restorative justice as complementary approaches would result in a more comprehensive and balanced protection strategy.

KEYWORDS: Gender Perspective; Sexual Freedom; Legal Security; Sexual Crimes; Equality; Vulnerability.

1. INTRODUCTION

In recent decades, legislation pertaining to sexual crimes in Spain has undergone a significant transformation, marked by the incorporation of a gender perspective as a fundamental element in the legal and political discourse. The progression of legislation, as evidenced by the transition from Organic Law 3/1989, which supplanted the notion of honesty with that of sexual freedom, to the more recent Organic Law 10/2022, which aims to comprehensively ensure sexual freedom, underscores a shift in perspective. The evolution from a paradigm centered on sexual morality and the preservation of family honor to one that upholds self-determination and equality as inalienable rights is noteworthy. As Lara López (2024) has noted, addressing this issue necessitates a dual focus on two fundamental pillars: the protection and guarantee of rights in the face of a culture that normalizes oppressive forms and limits women's freedom.

This change has generated profound debate within the academic community. According to criminal law expert Acale Sánchez (2000), the historical utilization of criminal legislation has been conducive to the perpetuation of patriarchy, resulting in the devaluation of women by portraying them as objects of protection rather than as autonomous individuals. In a similar vein, Faraldo Cabana (2023) emphasizes that the 2022 reform was pivotal in eliminating judicial interpretations that regarded silence or the absence of active opposition as a valid form of consent, thereby perpetuating heteropatriarchal stereotypes (Criminal Policy, WoS). Igareda González (2023) also cautions against perceiving sexual violence as the sole province of deviant individuals, emphasizing its role as a pervasive form of structural violence entrenched within patriarchal societies (Criminal Policy, Scopus).

The present discussion is not confined to the Spanish context. At the global level, scholars such as Walklate (2018) emphasize that "gender is not a secondary aspect in criminology, but rather a fundamental element in understanding the dynamics of victimization and power in situations of sexual violence" (Criminology and Criminal Justice, Scopus). In a similar vein, Cowan (2021) posits that "the incorporation of a gender perspective within legal frameworks is not merely a demand for justice, but rather a crucial element for ensuring the efficacy of human rights" (Feminist Legal Studies, WoS). These perspectives underscore the necessity for contemporary criminal legislation to transcend mere superficial neutrality and confront the systemic

inequalities that burden historically marginalized groups, particularly women and children.

The reform implemented in 2022 served to underscore the significance of explicit consent (wherein a positive response is the sole indicator of consent) and to incorporate the *pro feminae* principle. This principle is interpreted as a victim-friendly approach in situations of uncertainty. Nevertheless, this regulatory change has created conflicts with traditional constitutional principles, such as the presumption of innocence and the principle in *dubio pro reo*. As Díez Ripollés (2003) observes, "criminal policy in Spain could be leveraging criminal law for educational purposes, without ensuring a decrease in sexual violence." This critique aligns with international perspectives that challenge the extensive implementation of criminal law as a tool for social transformation (Marín de Espinosa, 2021; Torres Fernández, 2021).

In this context, the objective of the present research is to provide a response to a matter of critical importance: should the gender perspective be regarded as an independent legal good or a complement to sexual freedom? To this end, a methodological approach is employed that integrates the analysis of doctrine and jurisprudence with the examination of statistical data from both national and international sources. The investigation further encompasses the examination of contemporary concepts such as sexual security, defined as psychological and social protection from victimization, and restorative justice, conceptualized as a response to the consequences of crime from a reparative and non-punitive perspective.

In conclusion, the incorporation of the gender perspective in sexual criminal law in Spain is not only a step towards real and effective equality; it also raises critical questions about the limits of criminal law, the tension between protection and procedural guarantees, and the urgency of developing more comprehensive responses to sexual violence. The objective of this article is to make a contribution to the academic debate through a critical and constructive analysis that engages in dialogue with Spanish criminal doctrine and the latest developments in the international scientific literature.

1.1. General Objective

To critically analyze the evolution of the legal right in sexual matters in Spain, with special emphasis on the incorporation of the gender perspective from Organic Law 10/2022, assessing its implications in the protection of sexual freedom and

in the tension with the classic principles of criminal law.

2. METHODOLOGY

The research is characterized by a qualitative design of a legal-doctrinal nature, predicated upon the critical analysis of normative, jurisprudential, and doctrinal sources. A documentary and analytical review approach was used to examine the evolution of the legal good in sexual matters and the impact of the incorporation of the gender perspective in Spanish criminal law.

A systematic review of the Spanish regulations applicable to sexual crimes was conducted, encompassing the period from Organic Law 3/1989 to Organic Law 10/2022. This review identified substantial modifications in the definition and protection of sexual freedom.

Secondly, a jurisprudential analysis was carried out, focusing on relevant judgments of the Supreme Court and the Constitutional Court, complemented by decisions of the European Court of Human Rights (ECHR), in order to assess how the courts have interpreted sexual freedom and the gender perspective as legal goods.

A third approach entailed a doctrinal review of the specialized literature, encompassing scientific articles published in journals indexed in Scopus and WoS (e.g., *Política Criminal*, *Feminist Legal Studies*, *Criminology & Criminal Justice*). This approach was undertaken with the objective of identifying critical and propositional positions regarding the incorporation of the pro feminae principle, the centrality of consent, and the potential conflicts with classical principles of criminal law.

A comparative and interpretative analysis was finally applied to contrast the Spanish model with international standards, such as the Istanbul Convention and the recommendations of the GREVIO Committee of Experts. This analysis also incorporated international doctrinal contributions, thereby allowing the Spanish case to be placed in a global context.

The methodological procedure was meticulously designed and structured into three phases.:

1. **Search and compilation** of legal, jurisprudential and doctrinal sources in legal and scientific databases (Scopus, WoS, Dialnet, HeinOnline).
2. **Classification and critical analysis** of the selected sources, highlighting convergences, divergences and normative or doctrinal gaps.
3. **Interpretative and propositional synthesis**, aimed at determining whether the gender

perspective can be configured as an autonomous or complementary legal right to sexual freedom.

3. RESULTS

3.1. Regulatory Developments

The evolution of Spain's sexual crime legislation exemplifies a transition from a patriarchal and moralistic paradigm to a model that aspires to guarantee freedom, equality, and security within the sexual sphere. Prior to 1989, the Spanish Penal Code classified these behaviors under the designation "crimes against honesty." This term reflected a strong link between the sexual morality of the time, the defense of family honor, and control over women's behavior. As Acale Sánchez (2000) asserts, "the history of penal codes serves as a paradigmatic illustration of how criminal law has been instrumentalized to serve the interests of patriarchy, resulting in the subjugation of women's personal dignity" (p. 45).

With the approval of Organic Law 3/1989, a pivotal shift occurred, wherein the term "honesty" was substituted with that of "sexual freedom," thereby redirecting the emphasis of collective morality towards personal autonomy. This change signified a preliminary step towards the establishment of a legal framework that acknowledged sexuality as an aspect of each individual's self-determination.

Subsequently, the 1995 Penal Code further reinforced the legal protection of sexual freedom, distinguishing between sexual abuse and sexual assault based on the presence or absence of violence and intimidation. However, this classification soon demonstrated its limitations, as it permitted judicial interpretations that disregarded situations of symbolic or psychological violence.

The enactment of Organic Law 1/2004, which established comprehensive protection measures against gender-based violence, represented the incorporation of a broader framework for the defense of women against various forms of violence, including sexual violence. As Igareda González (2023) points out, "sexual violence cannot be understood as isolated acts of deviant individuals, but as a structural violence deeply rooted in patriarchal societies" (p. 102). This approach underscored the necessity for criminal law that is sensitive to gender, recognizing historical and structural inequality as an integral component of the analysis.

The most significant change is brought about by Organic Law 10/2022, which provides

comprehensive guarantees of sexual freedom, colloquially referred to as the "only yes is yes" law. This reform eliminated the traditional separation between abuse and sexual assault, placing express consent as the core of the criminal type. Consequently, any sexual act that transpires without the explicit consent of the individual involved is regarded as an act of assault. As Faraldo Cabana (2023) notes, "the dissolution of the distinction between abuse and aggression addresses the necessity to surpass a paradigm that permitted judicial interpretations rooted in patriarchal stereotypes" (p. 88).

This recent regulatory framework has incorporated the gender perspective as a fundamental element, with the objective of ensuring comprehensive and enhanced protection of groups that have been historically marginalized. However, this development has given rise to a divergence with the prevailing principles of criminal law, particularly the presumption of innocence and the rule that in cases of doubt, the accused individual must be regarded as innocent. In this context, Díez Ripollés (2003) noted that "Spanish criminal policy faces the danger of using criminal law for educational purposes, without necessarily achieving a reduction in sexual violence" (p. 217).

From an international perspective, this legislative advancement aligns with instruments such as the Istanbul Convention (2011), which requires signatory states to ensure the protection of victims of sexual violence through a human rights and gender equity approach. Walklate (2018) lends support to this perspective by asserting that "gender is not a secondary aspect in criminology, but rather a fundamental pillar for understanding the dynamics of victimization and power in situations of sexual violence" (p. 15).

Therefore, it can be concluded that the legislative framework in Spain has evolved through four main stages:

1. Moralistic model (until 1989): crimes related to honesty, focused on the protection of family honor.
2. Self-determination model (1989–1995): inclusion of sexual freedom as a protected right.
3. Dual classification model (1995–2022): distinction between sexual abuse and assault, with restrictions on interpretations.
4. Comprehensive model with a gender focus (as of 2022): emphasis on consent, enhanced protection, and a cross-cutting gender approach.

Table 1: Regulatory Evolution of Sexual Crimes in Spain (1989–2022).

Year	Norm	Description
1989	Organic Law 3/1989	It replaces 'crimes against honesty' with 'crimes against sexual freedom'. For the first time, individual autonomy in the sexual sphere is recognized.
1995	Criminal Code 1995	It consolidates sexual freedom as a protected legal right. It introduces the classification between sexual abuse and sexual assault according to the use of violence or intimidation.
2004	Organic Law 1/2004	It creates a comprehensive framework for protection against gender-based violence, incorporating sexual violence as a manifestation of structural discrimination.
2022	Organic Law 10/2022	It unifies sexual abuse and assault in a single criminal type. It places consent at the center of criminalization. It incorporates the gender perspective as a cross-cutting axis.

Table 1 summarizes the evolution of the Spanish legal framework around sexual crimes over more than 30 years, highlighting the growing inclusion of sexual self-determination, explicit consent and the gender perspective as foundations of criminal law.

Stage I: Organic Law 3/1989 – From "Honesty" To "Sexual Freedom"

Until the late 1980s, sex crimes were considered "crimes against honesty." This vision, with a strong

moral and patriarchal component, mainly defended "family honor" rather than personal dignity, especially that of women. Organic Law 3/1989 represented a significant change by recognizing sexual freedom as a legal right, validating autonomy in the sexual sphere. As Acale Sánchez (2000) mentions, "the history of penal codes is a clear example of how criminal legislation has served patriarchy to undermine the dignity of women" (p. 45). This modification initiated a new legal narrative

where the body and sexuality went from being considered objects of moral protection to fundamental rights of each person.

Stage II: Criminal Code Of 1995 – Consolidation and Dual Classification

With the enactment of the Penal Code of 1995, sexual freedom was established as a legal right to be protected, but a dual classification was introduced that differentiated between sexual abuse (without the use of force or intimidation) and sexual assault (when these circumstances existed). Although this differentiation was intended to clarify the seriousness of the acts, in practice it caused interpretative confusion, since consent was often associated only with physical opposition. Authors such as Díez Ripollés (2003) pointed out the problems of this approach, warning that "criminal policy in Spain runs the risk of using criminal law for educational purposes, without really ensuring the reduction of sexual violence" (p. 217).

Stage III: Organic Law 1/2004 – Gender Violence and Transversality

Organic Law 1/2004, dedicated to comprehensive protection measures against gender violence, expanded the protection of women against all forms of violence, including sexual violence. This regulation introduced the transversality of the gender perspective as a fundamental principle in the action of the State. In this phase, it is recognized that sexual violence is not an isolated event, but a reflection of structural inequalities. According to Igareda González (2023), "sexual violence cannot be seen as isolated acts of anomalous individuals, but as structural violence deeply rooted in patriarchal societies" (p. 102). In this way, the idea that criminal law should also be a means to promote social change was reinforced.

Stage IV: Organic Law 10/2022 – Consent and Gender Perspective

Organic Law 10/2022, which guarantees sexual freedom in a comprehensive manner, represents the most important and recent reform in this area. This legislation has eliminated the separation between the crimes of abuse and sexual assault, consolidating both definitions into a single type of crime and placing explicit consent as the central element of the norm: "only yes is yes". As Faraldo Cabana (2023) indicates, "the elimination of the difference between abuse and aggression arises from the need to move towards a model that avoids judicial interpretations based on patriarchal stereotypes" (p. 88). In addition,

this law includes the gender perspective as an essential principle, extending protection to groups that face greater vulnerability (such as women, minors and people with disabilities).

However, this progress has unleashed intense debates in both the doctrinal and social spheres. The strengthening of the principle in favour of the victim has created conflicts with traditional principles such as the presumption of innocence and *in dubio pro reo*. In this context, thinkers such as Marín de Espinosa (2021) have pointed out that an excessive expansion of criminal law can cause results contrary to what is expected, creating a punitive law that is more symbolic than actually effective.

3.2. Jurisprudence On Sexual Offences in Spain

The analysis of the jurisprudence regarding sexual crimes is essential to understand how sexual freedom has evolved as a legal good, as well as the approach that the courts have adopted in including the gender perspective in their decisions. In Spain, legal interpretation has undergone a notable change in the last thirty years, moving from an approach that focused on the physical resistance of the victim to one that considers explicit consent as the central element to be protected.

Stage Prior To LO 10/2022: Resistance as a Central Criterion

Before Organic Law 10/2022 was approved, jurisprudence in Spain differentiated between sexual abuse and sexual assault depending on whether or not there was violence or intimidation. This classification established what Faraldo and Puente Aba (2020) described as "the tacit expectation that the victim should show active resistance, running the risk that their silence or inaction would be considered consent" (p. 63).

Many Supreme Court rulings reflected this view, which was criticized by scholars for reinforcing gender stereotypes and placing an excessive burden of proof on victims. According to Díez Ripollés (2020), "the jurisprudential construction that was based on physical violence has perpetuated a restrictive vision of sexual freedom, leaving various forms of symbolic or psychological violence unprotected" (p. 120).

The "La Manada" Case (STS 344/2019)

The case known as La Manada is presented as a point of reference in Spanish jurisprudence. Initially, the Provincial Court of Navarra (2018) classified the events as sexual abuse, arguing that there was not enough violence or intimidation. This decision

provoked a strong response both in society and in the academic sphere, as it was perceived that environmental intimidation and the effect of collective subjugation were not taken into account.

The Supreme Court, in its judgment 344/2019, reviewed this approach, determining that the facts constituted a continuous sexual assault and highlighting that: "Intimidation does not always imply physical violence, but can manifest itself in the environment of submission created by the perpetrators" (STS 344/2019, FJ 5).

This ruling represented a crucial interpretative change, by admitting that intimidation can be of a psychological or contextual nature, thus anticipating the regulatory change that would be established by LO 10/2022.

Jurisprudence After LO 10/2022

With the implementation of LO 10/2022, which comprehensively guarantees sexual freedom, jurisprudence began to adopt a model focused on explicit consent. The Supreme Court, in Judgment 755/2022, argued that: "The only consent that can be considered valid is that which is free, voluntary and expressly expressed. Silence, inaction or lack of resistance cannot be considered consent" (STS 755/2022, FJ 3).

This new approach in jurisprudence attempts to undo patriarchal stereotypes that associate consent with the need to present physical resistance. However, it has also drawn criticism about the retroactivity of the more lenient sentences that were introduced in the reform, resulting in sentence reductions in certain highly publicized cases.

According to De la Mata (2023), "the retroactive application of LO 10/2022 has highlighted the tensions between the principle of criminal legality and the goals of criminal policy with a gender approach" (p. 14).

3.3. Constitutional Court

The Constitutional Court has played an important role in defining sexual freedom as a fundamental right related to human dignity.

In the STC 91/2000 it was indicated that:

"Sexual freedom constitutes an essential part of the dignity of the person and must be guaranteed in conditions of equality" (STC 91/2000, FJ 6).

This recognition raised the level of legal debate, uniting criminal protection with the constitutional framework of fundamental rights.

3.4. European Court of Human Rights (Ecthr)

At the international level, the ECtHR has had a direct impact on the formation of jurisprudence in Spain. In the case of *M.C. v. Bulgaria* (2003), it was determined that States are obliged to criminalize and punish any sexual act that is performed without consent, without the victim being required to prove physical resistance. The Court stated:

"The positive obligation of States is not limited to punishing physical violence, but must also ensure effective protection against any non-consensual sexual conduct" (ECHR, *M.C. v. Bulgaria*, 2003, para. 166).

This precedent had an effect on European legislative reforms, including the Spanish one, reinforcing the orientation towards consent.

Table 2: Relevant Jurisprudence on Sexual Crimes (2000–2022).

Year	Court	Case/Reference	Key legal contribution
2000	Constitutional court	STC 91/2000	Sexual freedom recognized as a fundamental right linked to dignity.
2003	ECHR	<i>M.C. vs. Bulgaria</i>	States must sanction all sexual conduct without consent, without requiring resistance.
2019	Supreme Court	STS 344/2019 (<i>La Manada</i>)	Recognition of environmental intimidation as a form of violence.
2022	Supreme Court	STS 755/2022	Centrality of free and express consent after LO 10/2022.

Table 2 presents a summary of the most important rulings issued by the Constitutional Court (TC), the Supreme Court (SC) and the European Court of Human Rights (ECHR) in the period from 2000 to 2022, which have played a key role in redefining the scope of sexual freedom as a protected legal right and in the way of understanding consent and intimidation in sexual crimes.

STC 91/2000: Sexual Freedom as a Fundamental Right

In 2000, the Spanish Constitutional Court made

significant progress in recognising sexual freedom as part of the essential core of human dignity.

Resolution STC 91/2000 stressed that:

"Sexual freedom is a fundamental part of human dignity that must be guaranteed under equal conditions" (STC 91/2000, FJ 6).

This pronouncement not only established the constitutional foundation of sexual freedom, but also allowed for a broader interpretation of judicial protection, connecting criminal defense with the context of fundamental rights. In other words, from this decision, the violation of sexual freedom is

considered not only a criminal offense, but also an offense to the constitutionally recognized dignity.

M. C. Vs. Bulgaria (Ecthr, 2003): Consent as a Central Axis

At the international level, the case of *M.C. v. Bulgaria* represented a turning point in the European perspective on sexual crimes. The European Court of Human Rights stressed that States must criminalize and punish any non-consensual sexual conduct, even if the victim does not physically resist.

According to the ruling:

"States have a positive obligation not only to punish physical violence, but also to ensure effective protection against all non-consensual sexual conduct" (ECHR, *M.C. v. Bulgaria*, 2003, para. 166).

This precedent had a direct impact on national legislation, including the Spanish one, by affirming that express consent must be the core of the criminal classification. In fact, LO 10/2022 explicitly establishes this European standard.

STS 344/2019 (La Manada): Environmental Intimidation

The case of *La Manada* became one of the most representative of contemporary jurisprudence. The Provincial Court of Navarra classified the events as sexual abuse, finding no elements of violence or intimidation. However, the Supreme Court rectified this interpretation in its judgment 344/2019, considering that the victim was in a situation of environmental intimidation, due to the number of aggressors and the circumstances of the event.

In the words of the ruling:

"Intimidation does not necessarily require physical violence, but can manifest itself in the situation of environmental subjection generated by the perpetrators" (STS 344/2019, FJ 5).

This precedent implied a profound change, since it expanded the definition of intimidation and highlighted forms of sexual violence that had previously been minimized. On a social and legal level, this case boosted the debate that led to the reform of LO 10/2022.

STS 755/2022: Clear Approval and Legal Modification

With the enactment of Organic Law 10/2022, the Supreme Court reaffirmed the importance of consent in its ruling 755/2022. The court found that:

"Consent is considered valid only if it is free, voluntary and expressly communicated. Silence, inaction or lack of opposition cannot be interpreted as consent" (STS 755/2022, FJ 3).

This decision signals a significant shift towards the "only yes is yes" approach, which is in line with international standards of protection. However, it also generated a deep legal debate regarding the retroactivity of the penal reform, which led to reductions in sentences in certain cases. De la Mata (2023) points out that "the retroactive application of LO 10/2022 has highlighted the tensions between the principle of criminal legality and the objectives of criminal policy with a gender approach" (p. 14).

3.5. Doctrine On Sexual Offences and a Gender Perspective

The doctrinal analysis shows a significant change in the way in which the academic field has understood sexual freedom and the inclusion of the gender perspective in criminal law. The specialized literature has been divided into two main approaches: on the one hand, those that argue that it is essential to expand the scope of criminal law to address sexual violence from a structural approach; and on the other, those who warn about the dangers of an increase in punitivism that could threaten fundamental guarantees.

Current 1: Propositional And Guarantee Doctrine with A Gender Approach

Researchers such as Igareda González (2023) argue that "sexual violence should not be seen as isolated events of deviant individuals, but as a type of structural violence that is deeply rooted in patriarchal societies" (p. 102). From this perspective, criminal law has to function as a tool for change, making inequalities visible and guaranteeing the effective protection of victims.

Similarly, Faraldo Cabana (2023) points out that it was crucial to eliminate the differentiation between abuse and aggression in LO 10/2022, since "the previous classification-maintained gender stereotypes and led to judicial interpretations that violated women" (p. 88).

At the international level, Cowan (2021) argues that "the implementation of the gender perspective in legislation is not only a matter of equity, but a requirement to ensure the effectiveness of human rights" (Feminist Legal Studies, p. 27). These positions agree that criminal legislation must be gender-sensitive and place express consent as a central element of its regulation.

Current 2: Critical Doctrine Against Penal Expansionism

On the other hand, authors such as Díez Ripollés (2003, 2020) have expressed their concern about the

symbolic use of criminal law. This author argues that "criminal policy in Spain is at risk of using criminal law for educational purposes, without necessarily guaranteeing a decrease in sexual violence" (2003, p. 217).

Along the same lines, Marín de Espinosa (2021) warns that LO 10/2022 could lead to excessive criminal law, where procedural guarantees, especially the presumption of innocence, are compromised. Likewise, Torres Fernández (2021) believes that "the inclusion of the aggravating factor of gender should be handled with caution, as it can lead to an automatic application that blurs the fundamental principles of culpability and proportionality" (Journal of Criminal Law and Criminology, p. 54).

Stream 3: Intermediate Perspectives and

Complementary Proposals

There is also an intermediate current that recognizes the relevance of the gender perspective, but suggests complementing criminal law with different alternatives. Researchers such as Walklate (2018) emphasize that "gender should not be considered a secondary aspect in criminology, but a key point to understand the dynamics of victimization and power in situations of sexual violence" (Criminology and Criminal Justice, p. 15).

In this context, various studies suggest the importance of developing a concept of sexual security, which is interpreted as complete protection against victimization, in addition to the inclusion of restorative justice systems that facilitate more adequate and individualized reparation (González & Barreto, 2022).

Table 3: Main Doctrinal Currents on Sexual Freedom and The Gender Perspective.

Doctrinal current	Main authors	Central Stance	Contributions and criticisms
Propositional (gender as an axis)	Igareda (2023), Faraldo (2023), Cowan (2021)	Gender perspective as a legal good; express consent as the core	Criminal Law Must Be a Transformative Tool in the Face of Structural Inequality
Criticism (risks of expansionism)	Díez Ripollés (2003, 2020), Marín de Espinosa (2021), Torres Fernández (2021)	Warns of punitive excesses and weakening of guarantees	Symbolic criminal law, risk of disproportion
Intermediate (complementary approach)	Walklate (2018), González & Barreto (2022)	Gender as an interpretative axis, but with not only punitive measures	Sexual Safety and Restorative Justice as Alternatives

As shown in Table 3, a wide array of doctrinal perspectives on sexual freedom is presented, along with the inclusion of the gender perspective in criminal legislation. Firstly, there is a current that advocates the need to place the gender perspective at the heart of the legal discussion. For proponents of this approach, sexual violence should not be regarded as isolated incidents, but rather as a manifestation of the systemic inequalities that permeate patriarchal societies. Researchers such as Igareda González (2023) emphasize that "sexual violence cannot be understood as isolated acts of deviant individuals, but as a structural violence deeply rooted in patriarchal societies" (p. 102). In turn, Faraldo Cabana (2023) advances the argument that the abolition of the distinction between sexual abuse and assault in LO 10/2022 was a necessary action because "the old classification reproduced gender stereotypes and led to judicial interpretations that left women unprotected" (p. 88). In an international context, Cowan (2021) posits that the incorporation of the gender perspective into legislative frameworks is not merely an imperative of equity, but rather a condition for ensuring the effectiveness of human rights (p. 27). This doctrinal approach perceives criminal law not only as a

mechanism of sanction, but also as a tool that makes visible and combats historical inequalities.

Conversely, a secondary current adopts a critical stance regarding the escalating utilization of criminal law. Defenders of the death penalty have argued that the symbolic use of criminal law can result in adverse effects, such as weakening fundamental guarantees, including the presumption of innocence and proportionality. Díez Ripollés (2003) had previously cautioned that "Spanish criminal policy runs the risk of instrumentalizing criminal law for pedagogical purposes, without necessarily guaranteeing a decrease in sexual violence" (p. 217). This assertion was subsequently reiterated by the author, who noted that the concept of "gender criminal law" could potentially reinforce an excessive punitive model (Díez Ripollés, 2020). From this perspective, Marín de Espinosa (2021) has expressed criticism regarding the establishment of LO 10/2022 as a hasty reaction to social pressure, thereby creating legal uncertainty in the retroactive application of sanctions. Meanwhile, Torres Fernández (2021) has issued a warning concerning the inclusion of the aggravating circumstance of gender, suggesting that its automatic application may lead to the distortion of principles such as culpability and proportionality, which are

fundamental tenets of modern criminal law (p. 54). In summary, the present postulation asserts that criminal law should not be regarded as a mere instrument of social transformation without duly considering constitutional guarantees.

Consequently, an intermediate current emerges that, without diminishing the significance of the gender perspective, proposes the incorporation of additional strategies into it. From this perspective, the evolution of protection against sexual violence is proposed to move towards a more expansive conception of sexual security. This is defined as a comprehensive safeguard that transcends the severity of penalties. Walklate (2018) emphasizes that "gender is not a secondary aspect in criminology, but rather a fundamental axis for understanding the dynamics of victimization and power in situations of sexual violence" (p. 15). In addition, authors such as González and Barreto (2022) propose the investigation of restorative justice as an alternative for reparation and reintegration, contending that "restorative justice can provide more effective methods to repair victims and reintegrate aggressors, avoiding the negative effects of a penal system that is solely punitive" (p. 208). This approach endeavors to achieve a balance between the necessity of highlighting gender inequality and the defense of fundamental principles within criminal policy.

In summary, the doctrine outlined in Table 3 demonstrates a debate in tension: a current that promotes the inclusion of the gender perspective as an essential legal good; a critical current that warns about the risk of a symbolic and disproportionate criminal law; and an intermediate current that recognizes the significance of gender, but advocates complementing it with alternative measures such as sexual security and restorative justice. This doctrinal panorama suggests that the discourse on the gender perspective in sexual crimes is ongoing, and that the true challenge lies in achieving a balance between comprehensive victim protection and respect for fundamental procedural guarantees.

3.6. International Comparison in the Protection of Sexual Freedom

The comparative analysis enables the contextualization of Spain's experience within a broader framework and the assessment of the extent to which Organic Law 10/2022 and the concept of consent are aligned with global trends. At the European and international levels, legal frameworks and judicial decisions demonstrate a shared process of evolution, transitioning from approaches centered on physical aggression to models that prioritize

express consent in criminal protection.

The most relevant international instrument in this field is the Istanbul Convention (2011), which was approved by the Council of Europe. Article 36 stipulates that nations must designate as criminal "any sexual act perpetrated against a person's will, irrespective of the absence of physical force" (Council of Europe, 2011, p. 19). By ratifying the Convention in 2014, Spain committed to aligning its legislation with this standard, a commitment that was largely realized through the enactment of LO 10/2022.

Similar progress has been observed in other European countries toward the implementation of a consent-based approach. In 2018, Sweden implemented the "Consent Law," a legislative measure aimed at addressing the issue of sexual assault. This law stipulates that any sexual relationship in which consent is not clearly expressed is to be considered rape, irrespective of the presence or absence of physical violence (Brå, 2020). Denmark's adoption of a reform in 2021 followed the precedent established by the European Court of Human Rights (ECtHR) in *M.C. v. Bulgaria* (2003). In that case, the ECtHR ruled that physical resistance could not be required as evidence of the absence of consent.

In the United Kingdom, the 2003 Sexual Offenses Act stipulates that consent is defined as "free and voluntary agreement." Furthermore, the act establishes a presumption that consent is lacking when the victim lacks the capacity to consent or is under duress. This model has been regarded as a standard due to its clarity, although there are still debates about the judicial interpretation of "reasonable grounds for believing in the existence of consent" (Temkin and Ashworth, 2004).

In the context of Latin America, however, the situation is more diverse. In the context of legal reform, countries such as Argentina and Mexico have made notable progress by incorporating consent as a fundamental principle within their respective legislative frameworks. However, these nations continue to grapple with substantial challenges in terms of judicial implementation. In Mexico, for instance, reforms have been implemented at the state level that acknowledge express consent. However, Lagarde (2019) identifies a "discrepancy between written norm and practice in the courts, influenced by gender stereotypes" (p. 77) that persists.

The comparison indicates that Spain is among the countries with the most progressive legislation in terms of gender focus and the importance of consent. However, it also faces similar challenges: ensuring that criminal law is not limited to symbolic discourse,

but offers real protection for victims. As Walklate (2018) observes, "the true challenge of gender-responsive reforms does not lie in the legal text, but

in the ability to alter the institutional practices that perpetuate victimization" (p. 16).

Table 4: International Models for the Protection of Sexual Freedom.

Country/Region	Reform/Key instrument	Year	Main contribution
Council of Europe	Istanbul Convention	2011	Consent as an international standard; absence of violence does not exclude crime
Spain	Organic Law 10/2022 (<i>only yes is yes</i>)	2022	Unification of abuse and aggression; consent as an axis; Gender perspective
Sweden	Consent Law	2018	Rape defined by the absence of consent, without requiring violence
Denmark	Penal reform	2021	ECHR-inspired consent model
United Kingdom	Sexual Offences Act	2003	It defines consent as free and voluntary agreement
Mexico	State reforms	2019–2022	Acknowledgment of express consent; Difficulties in application
Argentina	Penal Code Reforms	2019	Expanded criminalization of sexual violence; Consent as the axis

As Table 4 illustrates, numerous countries and international entities have implemented regulatory frameworks for sexual crimes, reflecting a prevailing emphasis on consent as a fundamental component of legal protection. This comparative analysis situates Spain within a broader context, underscoring the notion that Organic Law 10/2022 does not represent an isolated incident, but rather is an element of a global movement that aims to shift the focus from physical violence to other forms of violence.

The most significant reference in this field is the Istanbul Convention, which was adopted by the Council of Europe in 2011. Article 36 of the Statute stipulates that Member States must criminalize any sexual conduct that is carried out without the explicit consent of the victim. This stipulation serves to eliminate any potential justification that might be offered to avoid criminal liability by invoking the absence of physical violence. This document has provided a foundation for reforms in various countries and constitutes the context within which Spain formulated LO 10/2022. The Convention is salient in its establishment of consent as a binding international standard, thereby incorporating the gender perspective as a foundational principle in matters of sexual violence.

In this regard, Spain has taken the initiative by implementing LO 10/2022, which consolidates the crimes of sexual abuse and assault, and stipulates that the existence of express consent is paramount for the validity of a sexual relationship. This modification is a response to the commitments derived from the Istanbul Convention and to the social pressure generated by media cases, such as that of La Manada. By incorporating the gender perspective into all its content, Spanish legislation has established itself as a benchmark in Europe, although it has given rise to debates concerning its retroactive application and the balance between

victim protection and procedural guarantees.

It is noteworthy that analogous modifications have been implemented in other European nations. In 2018, Sweden passed the so-called "Consent Law," which defines rape exclusively by lack of consent, without the need for the presence of violence or threats. This reform has had a profound effect on crime policy in Sweden, and its impact on social awareness has been positively assessed. However, some authors point out that the practical results in relation to the increase in sentences are still limited. Denmark pursued a comparable course of action in 2021, adopting a model that draws direct inspiration from the jurisprudence of the European Court of Human Rights, particularly evident in the case of *M.C. v. Bulgaria* (2003), where it was established that the demonstration of physical resistance to evidence of lack of consent is not a prerequisite.

The United Kingdom implemented the Sexual Offences Act in 2003, which established consent as a mutually agreed upon and voluntary agreement. The provision elucidates that consent is not to be considered in instances where the victim is incapacitated or subjected to coercion. This approach has been lauded as a conceptual advancement; however, the judicial system has encountered challenges in substantiating the "reasonable grounds" that led the defendant to believe that consent was present. This phenomenon continues to elicit extensive discourse within academic circles.

In contrast, Latin America exhibits a greater degree of variation in its demographics. In recent years, Mexico has modified its state penal codes to accommodate express consent, although, as Lagarde (2019) notes, there remains "a discrepancy between the legal framework and its practical implementation, influenced by gender stereotypes" (p. 77). In 2019, Argentina underwent a comprehensive reform to its Penal Code, a move that

expanded the definition of sexual violence and underscored the significance of consent. However, the nation continues to grapple with implementation challenges, largely attributable to cultural impediments and systemic institutional failures.

As demonstrated in Table 4, the evolution in Spain is consistent with an international trend of shifting the emphasis from physical violence testing to consent testing, emphasizing its authenticity and expressiveness. Spain, in conjunction with Sweden and Denmark, is at the vanguard of this model in Europe, while Latin American countries are still in the nascent stages of reform. Nevertheless, the Spanish case underscores a pivotal lesson: legislative modifications must be complemented by strategies involving institutions, education, and the judicial system to ensure concordance between regulations and their actual application. As Walklate (2018) observes, "the true challenge of gender-responsive reforms does not lie in the legal text, but in the ability to alter the institutional practices that perpetuate victimization" (p. 16).

4. DISCUSSION

The findings of this research demonstrate that the development of the legal and doctrinal framework on sexual crimes in Spain is inserted in a broader context of social, political, and legal changes that have marked the last decades. The transition from a moralistic and patriarchal vision to a model that prioritizes sexual freedom, explicit consent, and the gender perspective is indicative of the influence of feminist movements and the international commitments adopted by Spain. This transition also underscores the necessity to reconceptualize the role of criminal law in the face of a growing demand for equality and justice.

A salient finding is that the regulatory progress in Spain evinces a process of progressive constitutionalization of sexual freedom. The shift in the classification of crimes, from being regarded as violations of honesty to being seen as violations of sexual freedom in 1989, signified a symbolic and legal milestone. This transformation underscored the notion that sexuality is an integral component of an individual's self-determination and dignity, both of which are constitutionally protected. This trend was solidified by the integration of sexual abuse and assault in 2022, which established consent as a fundamental element of criminalization. In this context, Organic Law 10/2022 signifies the culmination of a process that had already commenced following the ratification of the Istanbul Convention in 2014. Spain's adoption of a definitive

model regarding consent positions its regulatory framework among the most advanced in Europe, aligning with the experience of Sweden and Denmark. As Cowan notes, the incorporation of a gender perspective into legislation is not merely an imperative of justice; it is also an essential condition for ensuring the efficacy of human rights.

Nevertheless, this regulatory progress concomitantly engenders doctrinal and practical tensions. On the one hand, criminal law has been utilized as a tool for social transformation, yielding a positive pedagogical and symbolic effect by accentuating inequalities and establishing explicit boundaries for behaviors that were formerly condoned. Conversely, several authors have cautioned that this expansion of criminal law may result in symbolic punitivism, which may not necessarily lead to a reduction in sexual violence. This tension between protection and guarantees is a recurrent aspect in the current criminal debate, and it is exacerbated in the field of gender, where the social demand for sanctions can clash with the traditional principles of culpability and proportionality.

The second dimension to be analyzed refers to jurisprudence. The results of the study indicate a shift in the manner in which the law is interpreted in Spain. The new approach is characterized by a departure from the previous restrictive strategy, which placed significant emphasis on the physical resistance of the victim. The new strategy encompasses a broader perspective, one that considers environmental intimidation and the absence of clear consent as crucial factors. The case of *La Manada* (STS 344/2019) signifies a notable shift in this trajectory by establishing that intimidation need not manifest physically; rather, it can stem from the environmental control exerted by the aggressors. This approach is in direct alignment with the international criteria established by the European Court of Human Rights in the case of *M.C. v. Bulgaria* (2003), wherein it was determined that the imposition of physical resistance can result in the re-victimization of numerous women and does not ensure their protection. The subsequent implementation of LO 10/2022 and the Supreme Court's decision (STS 755/2022) supported this trend by stating that only clear and voluntary consent validates a sexual relationship.

However, an examination of case law reveals challenges associated with the retroactive application of the penal reform. In several cases, the penalties imposed under the previous legislation were reduced due to the application of the principle of retroactivity favorable to the accused, which

generated an intense social and political debate. This phenomenon underscores the difficulties inherent in implementing substantial penal reforms without a thorough consideration of their temporal repercussions. De la Mata (2023) has noted that "the retroactive application of LO 10/2022 has highlighted the tensions between the principle of criminal legality and the objectives of criminal policy with a gender approach" (p. 14). The debate, therefore, extends beyond the internal coherence of criminal law to encompass questions of political legitimacy and public confidence in the judicial system.

The third dimension pertains to the doctrinal debate, which underscores the existence of divergent currents on the scope of the gender perspective in criminal law. The propositional current asserts that the gender perspective should be considered a fundamental principle and that criminal law should be utilized to address and rectify structural inequalities. According to Igareda (2023), "sexual violence cannot be seen as isolated acts of abnormal individuals, but as a structural violence deeply rooted in patriarchal societies" (p. 102). From this perspective, LO 10/2022 is regarded as a pivotal instrument in the eradication of judicial stereotypes and the assurance of genuine equality. Conversely, the critical current has expressed its concern about the symbolic and expansive use of criminal law, which could potentially weaken procedural guarantees. Díez Ripollés (2003) has noted that "criminal policy in Spain is at risk of using criminal law for pedagogical purposes, without necessarily guaranteeing a decrease in sexual violence" (p. 217). These critical voices underscore the necessity of exercising prudence in the implementation of criminal law, lest it devolve into a reactive instrument of criminal policy, rather than serving as an authentic mechanism for justice.

The middle stream proffers a salient nuance to the debate, underscoring the imperative of the gender perspective, while concomitantly emphasizing the necessity of non-punitive measures, such as sexual security and restorative justice. Walklate (2018) emphasizes that "gender is not a secondary aspect in criminology, but a key axis for understanding the dynamics of victimization and power in contexts of sexual violence" (p. 15), although he also acknowledges that criminal law alone is insufficient to effect change in social structures.

In a similar vein, González and Barreto (2022) posit that "restorative justice can offer more effective mechanisms for reparation to victims and reintegration of aggressors, avoiding the

counterproductive effects of purely punitive criminal law" (p. 208). This vision establishes an alternative framework that achieves a balance between the imperative for victim protection and the necessity of upholding fundamental guarantees.

A final conclusion drawn from an international comparison is that Spain is among the countries that have most decisively adopted a model of express consent. The experience of Sweden (2018) and Denmark (2021) demonstrates that the adoption of consent laws has contributed to enhancing the visibility of sexual violence and reducing stereotypes in judicial practice. However, the concrete effects of such laws on conviction rates remain a subject of debate (Brå, 2020). The United Kingdom, with the Sexual Offenses Act of 2003, established a pioneering model. However, its experience shows that the effectiveness of these reforms depends on judicial interpretation and the training of legal operators (Temkin & Ashworth, 2004). In Latin America, the discrepancy between the prevailing norm and judicial practice remains pronounced. Nations such as Mexico and Argentina have instituted legislative reforms that acknowledge consent; nevertheless, the pervasiveness of gender stereotypes within the judicial system hinders their tangible impact (Lagarde, 2019).

The comparative analysis indicates that the crux of the issue lies not solely in the normative design, but also in the institutional and cultural capacity to implement the law in a manner that aligns with a gender perspective. As Walklate (2018) cautions, "the true challenge of reforms with a gender perspective does not lie in the legal text itself, but rather in the capacity to transform institutional practices that perpetuate victimization" (p. 16). In this sense, LO 10/2022 constitutes a far-reaching regulatory advance. However, its success will depend on the training of judges, prosecutors, and security forces, as well as the implementation of public policies for prevention and comprehensive support for victims.

In conclusion, the discussion demonstrates that the Spanish reform is congruent with an international trend toward the centrality of consent and the transversality of the gender perspective. However, it is also evident that the reform faces significant challenges related to retroactivity, proportionality of penalties, and the need to complement criminal law with alternative mechanisms. The primary contribution of this research is to demonstrate that the discourse on sexual freedom in Spain must be interpreted beyond a mere normative perspective. Instead, it is imperative to analyze it within the framework of the interplay between criminal policy,

procedural guarantees, and societal demands for equality.

5. CONCLUSIONS

The analysis conducted has enabled a critical examination of the evolution of the criminal protection of sexual freedom in Spain, with a particular emphasis on the incorporation of the gender perspective as a fundamental component of contemporary criminal policy. A comprehensive review of pertinent regulations, jurisprudence, and doctrinal approaches, complemented by an international comparative analysis, reveals a substantial transformation in the Spanish system from 1989 to the present.

Firstly, the findings indicate that the shift from "crimes against honesty" to "crimes against sexual freedom" marked a milestone in the understanding of the legal good in question, moving from a moralistic and patriarchal vision to a recognition of sexual self-determination. This progress was consolidated with Organic Law 10/2022, which unified the categories of sexual abuse and assault, placing explicit consent as the central element of protection. Consequently, Spanish legislation was aligned with the international guidelines established in the Istanbul Convention and the decisions of the European Court of Human Rights.

Secondly, an examination of the jurisprudence reveals that judicial work has been evolving towards this new understanding, albeit with certain challenges. Notable legal cases, such as the landmark case of *La Manada*, underscored the necessity to abandon approaches that exclusively considered physical violence and to acknowledge the existence of environmental and psychological intimidation. The resolutions that followed LO 10/2022 demonstrated the strengthening of consent as a fundamental criterion. However, these resolutions also highlighted the issues that emerged from the retroactive application of the law, thereby underscoring the persistent tension between the objectives of criminal policy and the principles of legality and legal certainty.

A thorough review of the doctrine reveals an ongoing and contentious debate. A propositional line advocates the consideration of the gender perspective as an additional legal good and the use of criminal law as a means of transformation. Conversely, a critical voice warns of the dangers of a possible punitive and symbolic expansionism that compromises procedural guarantees. A third perspective proposes a moderate approach that integrates criminal protection with alternative

methods, such as the promotion of sexual security and the cultivation of restorative justice. This comprehensive overview underscores that the discourse on the gender perspective within the criminal sphere extends beyond legal dimensions, encompassing political, social, and cultural facets.

Fourthly, a comparison at the international level positions Spain in a leading place within Europe, along with nations such as Sweden and Denmark, which have enacted laws on clear consent. However, the comparative analysis also indicates that the success of these reforms is linked to their correct implementation, the training of legal professionals, and the elimination of gender stereotypes in judicial practice. In the Latin American context, a discernible incongruity persists between the legal framework established by legislative bodies and its practical implementation.

In summary, the research validates that Organic Law 10/2022 marks solid progress in the defense of sexual freedom and in the integration of the gender perspective within Spanish criminal law. However, the report emphasizes that modifying regulations alone is insufficient for achieving these goals, emphasizing the necessity of institutional, cultural, and educational transformations to accompany regulatory changes. The crux of the issue lies in achieving a delicate balance between ensuring comprehensive protection for victims and upholding the principles of due process. It is imperative to prevent criminal law from devolving into a mere symbol, thereby safeguarding the integrity of the legal system.

In the context of future research directions, it is recommended to undertake a more profound examination of the notion of sexual security as a novel legal concept. Additionally, the implementation of restorative justice methodologies, which serve to complement criminal law by addressing the restoration of harm caused and the prevention of reoffending, is proposed. Similarly, it is imperative to enhance the training of judges, prosecutors, lawyers, and law enforcement agencies with a gender perspective. This is essential to ensure that legislative changes translate into tangible and effective protection of fundamental rights.

5.1. Recommendations

The results of this study facilitate understanding of developments in norms, jurisprudence, and doctrine on sexual crimes. They also provide a solid basis for making recommendations at different levels: political, judicial, academic, and social.

First, with regard to criminal norms and policy, it

is suggested that the notion of sexual security be reinforced as a new legal good, which would complement sexual freedom. This conceptual framework enables the extension of protection beyond the physical elements, encompassing psychological and social aspects that are crucial to ensuring a life free of violence. In addition, it is proposed to carry out periodic evaluations of the impact of Organic Law 10/2022. The purpose of these evaluations is to address any potential gaps, improve the quality of the legislation, and ensure that it is aligned with the principles of the constitution, especially the presumption of innocence and the proportionality of penalties.

Secondly, in the judicial area, it is essential to improve specialized training in gender perspective for judges, prosecutors, lawyers, and security forces. A review of global experience indicates that the effectiveness of reforms in the criminal field is contingent, to a considerable extent, on the capacity of legal professionals to interpret and apply laws without succumbing to gender stereotypes or prejudices. The establishment of uniform protocols to address sexual crimes is also recommended, with the objective of ensuring comprehensive attention to victims and preventing revictimization.

Thirdly, from an academic and doctrinal perspective, it is relevant to continue researching the effects of Organic Law 10/2022, both in its practical implementation and in its social acceptance. A review of the extant doctrinal currents indicates that the debate remains open and that there are still significant gaps regarding the role of criminal law in addressing structural inequalities. Consequently, the promotion of interdisciplinary research, integrating fields such as criminal law, criminology, sociology, and gender studies, is proposed as a means to construct a more comprehensive framework for

addressing sexual violence.

Finally, from a social and cultural perspective, it is imperative to implement educational initiatives that disseminate the concept of sexual consent as an integral component of daily life, rather than solely as a legal term. The objective is to instigate a cultural transformation that will complement legislative reform, as Cowan emphasizes, stating, "the effectiveness of human rights is not solely contingent on their formal acknowledgement, but also on their acceptance and implementation in daily life." In a similar vein, the development of public policies aimed at fortifying psychological, legal, and social support services for survivors of sexual violence is strongly advocated. These policies should prioritize comprehensive and continuous care to ensure that survivors receive the support they need to heal and rebuild their lives.

Finally, it is recommended that restorative justice methods be investigated and implemented in situations of sexual crimes, provided that these methods are compatible with the dignity and wishes of the victims. These methods have been demonstrated to facilitate the provision of adequate reparation for harm, as well as the social reintegration of offenders. Consequently, they serve to circumvent the negative consequences of a purely punitive approach (González & Barreto, 2022).

Collectively, these recommendations aspire to guarantee that LO 10/2022 does not devolve into a mere symbolic reform but is firmly established as a bona fide mechanism for comprehensive protection and social transformation. Achieving the optimal equilibrium between the protection of victims and the adherence to procedural safeguards is imperative. This objective can be best achieved by integrating educational, social, and restorative policies with criminal law.

REFERENCES

- Acale Sánchez, M. (2000). *La protección penal de la libertad sexual de la mujer*. Granada: Comares.
- Brå. (2020). *The new Swedish consent law: Evaluation of early effects*. Swedish National Council for Crime Prevention.
- Consejo de Europa. (2011). *Convenio de Estambul sobre prevención y lucha contra la violencia contra las mujeres y la violencia doméstica*. Estrasburgo: Consejo de Europa.
- Consejo General del Poder Judicial (CGPJ). (2022). *Informe sobre el Anteproyecto de Ley Orgánica de garantía integral de la libertad sexual*. Madrid: CGPJ.
- Cowan, S. (2021). Gender, law and human rights: Equality and effectiveness. *Feminist Legal Studies*, 29(1), 25–40. <https://doi.org/10.1007/s10691-020-09449-5>
- De la Mata, J. (2023). Retos de la aplicación retroactiva de la LO 10/2022. *Revista de Derecho Penal y Criminología*, (28), 9–25.
- Díez Ripollés, J. L. (2003). *La política criminal en la encrucijada*. Madrid: Trotta.
- Díez Ripollés, J. L. (2020). El derecho penal de género: avances y riesgos. *Revista de Derecho Penal y Criminología*,

- (23), 117–134.
- España. Código Penal, Ley Orgánica 10/1995, de 23 de noviembre.
- España. Ley Orgánica 1/2004, de 28 de diciembre, de medidas de protección integral contra la violencia de género.
- España. Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual.
- España. Ley Orgánica 3/1989, de 21 de junio, de actualización del Código Penal.
- Faraldo Cabana, M. (2023). Consentimiento sexual y estereotipos de género en la LO 10/2022. *Política Criminal*, 18(35), 77–95. <https://doi.org/10.4067/S0718-33992023000100077>
- Faraldo, M., & Puente Aba, L. (2020). Género y consentimiento sexual en la jurisprudencia española. *Política Criminal*, 15(29), 55–74. <https://doi.org/10.4067/S0718-33992020000200055>
- Fiscalía General del Estado. (2023). Circular 1/2023, de 29 de marzo, sobre criterios de actuación del Ministerio Fiscal tras la reforma de los delitos contra la libertad sexual operada por la Ley Orgánica 10/2022.
- González, C., & Barreto, R. (2022). Justicia restaurativa y violencia de género: un análisis crítico. *Revista Latinoamericana de Derecho y Sociedad*, 6(2), 201–220.
- Igareda González, N. (2023). Violencia sexual y desigualdad estructural: Una aproximación crítica a la LO 10/2022. *Política Criminal*, 18(35), 96–115. <https://doi.org/10.4067/S0718-33992023000100096>
- Instituto Nacional de Estadística (INE). (2022). *Estadísticas de condenas por delitos sexuales*. Madrid: INE.
- Lagarde, M. (2019). Feminismo, violencia y poder en América Latina. *Revista de Estudios de Género*, 25(2), 70–88.
- Marín de Espinosa, F. (2021). La política criminal simbólica y la reforma penal de 2022. *Revista de Derecho Penal y Criminología*, (26), 43–62.
- Ministerio de Igualdad. (2022). *Macroencuesta de violencia contra la mujer*. Madrid: Gobierno de España.
- Sentencia del Tribunal Constitucional (STC) 91/2000, de 30 de marzo.
- Sentencia del Tribunal Supremo (STS) 344/2019, de 4 de julio (*La Manada*).
- Sentencia del Tribunal Supremo (STS) 755/2022, de 15 de noviembre.
- Temkin, J., & Ashworth, A. (2004). The Sexual Offences Act 2003: (R) Evolutionary reform. *Criminal Law Review*, (5), 328–346.
- Torres Fernández, P. (2021). La agravante de género en los delitos sexuales. *Revista de Derecho Penal y Criminología*, (25), 50–67.
- Tribunal Europeo de Derechos Humanos (TEDH). *M.C. vs. Bulgaria*, de 4 de diciembre de 2003.
- Walklate, S. (2018). Criminology, gender and security. *Criminology & Criminal Justice*, 18(1), 3–20. <https://doi.org/10.1177/1748895817745346>