Introduction

Penitentiary systems have become part of national security and defence strategies. As a result, in some cases European prison legislation has incorporated references to public safety and even national security when establishing more restrictive prison regimes. This process, which had already been anticipated in the 1970s when dealing with the problems caused in prisons by nationalist and extreme left and right-wing terrorist groups, has now intensified with the emergence of jihadist terrorism.

The emergence of jihadist terrorism has resulted in the introduction of more restrictive prison regimes and/or supervision measures, not only for persons linked to terrorist activities but also for prisoners who although not linked to terrorism are considered to be radicalised or susceptible to radicalisation. The use of the concept of radicalisation as a basis for the securitisation of certain public policies has contributed significantly to this process.

In order to determine the impact of these processes, we have analysed the documents outlining the strategies that different states have adopted to deal with radicalisation and jihadist terrorism. The prison legislation of various European countries has also been reviewed to determine how these strategies have led to the introduction of more restrictive prison regimes and/or security measures for certain sectors of the prison population.

While it is true that prisons in their role as an institution for the custody of convicted and remand prisoners have traditionally fulfilled a security function, the intensification of terrorism in the 1970s posed a challenge for states, which were forced to deal with the entry of large contingents of prisoners linked to terrorist organisations in their prisons. In Northern Ireland, prisoners convicted of offences of terrorism accounted for between 50% and 66% of the prison population Terrorism had profound implications for the Italian judicial and prison system. About 5,000 people were prosecuted for their involvement in terrorist activities. Given that the Italian prison population in 1980 it had 28,606 inmates, 10.48% of whom were affiliated with extreme left-wing terrorism .

Individuals imprisoned for terrorism-related offences can pose a problem for the normal functioning of the system. The wilfulness of politically motivated prisoners makes them more disposed to becoming a disruptive element in the prison and confronting the administration. This might account for the fact that in Britain, Irish republican offenders convicted under the terms of the Prevention of Terrorism Act were until 1997 always Class A (high risk/long-term) prisoners even if they were serving a sentence of less than four years. Thus, they were already recognised by the authorities as possible "problem inmates" before they even arrived.

Many European countries such as Northern Ireland, Italy, the Federal Republic of Germany and Spain suffered major distortions in their prison systems as a result of terrorist activity and the concept of prison security underwent a radical transformation. The irruption of Red Army Faction (RAF) inmates in prisons "changed the concept of dangerousness." As a result of this change in the meaning of the concept of prison risk,

prison security also assumed a new dimension. The same was true for Spain. In a context in which parallels were being drawn between the situation in Spanish prisons and those of the Federal Republic of Germany and Italy.

The broadening of the concept of national security and securitisation

Traditionally, national security has been a concept linked to the idea of defence against external military threats. The 9/11 attacks marked the emergence of the new threat of transnational terrorism which has been at the heart of U.S. security policy in recent years. This new type of terrorism and its link with prisons converted the penitentiary system into a major concern for the public authorities. The radicalisation of prisoners acquired the status of a serious threat to U.S. national security.

Preventive and risk assessment policies, especially for certain sectors of the vast American prison population such as Muslims, became one of the key elements of the government's response to the problem. For example, the concept of national security is a basic criterion in the regulation of religious assistance to inmates in U.S. federal prisons. The concept of national security has therefore undergone an evolution that has led to a broadening of its boundaries and its expansion to other state institutions that were not traditionally part of it, or at least not officially. there has been a projection of measures related to national security towards areas that were previously alien to it, such as crime. There is the accelerated and continuing integration of national security and criminal justice under counter-terrorism frameworks.

Security strategies have come to view radical and undemocratic ideologies as risk enhancers. These ideologies are seen as potential sources for the propagation of violent ideas and actions. This broadening of the concept of national security has progressively anticipated the state's response to achieve the prevention and criminalisation of behaviour that is often very far from being true criminal conduct from a criminological perspective. McCulloch and Pickering (2009: 633) state that response anticipation strategies in cases of terrorism entail a pre-crime logic. This logic is related to the assimilation of the criminal justice system and therefore of the prison system within the national security apparatus. This also means putting an end to the difference between the internal and external action of the State in matters of security, especially in matters related to terrorism and organised crime.

Jihadism and radicalisation as vectors of securitisation processes

The definition of the concept of the radical becomes a necessary factor in the fight against terrorism and defines prisons as the battleground of choice for this combat. The defence of sovereignty gives rise to a kind of internal war involving legal and legislative bodies and the adoption of penitentiary and disciplinary measures aimed at "pacifying national territories". Radicalisation is a further extension of the concept of prison risk. De Galembert (2016: 65) speaks of a new, very diffuse concept of dangerousness in prisons deriving from radicalisation processes which is embodied in the concept of the 'radical'.

Concerns regarding radicalisation have tightened the relationship between the security and intelligence apparatus of states and prison systems in recent years. A number of European states have created intelligence structures within their prison systems along these lines. Spain, France, Belgium and Italy are examples.

Countries such as Sweden and the United Kingdom have introduced the concept of national security as a key element when making decisions in the field of prison security.

The penetration of securitisation and the concept of national security in European prison laws

In Scandinavia, Denmark and Norway reformed their prison laws in 2000, Finland in 2005 and Sweden in 2010. In all cases, these laws sought to bolster the safeguards of prisoners' rights and judicial supervision of prison activity. At the same time, they reflect a certain tendency towards the possibility of establishing exceptional regimes in specific cases, such as the risk of recidivism. The Swedish law places special emphasis on security (Lappi-Seppälä and Nuotio, 2019: 192).

In 2005, Belgium enacted a new prison law, the Law of Principles of 12 January 2005 on Prison Administration and the Legal Status of Prisoners. In France, the Penitentiary Law of 24 November 2009 entered into force in 2009. Spain also amended its Prison Regulations in 2011.

In all cases, jihadist terrorism and the consideration of prison systems as a key national security tool has been reflected in the prison regulations and practices of many states.

The first two decades of the 21st century have seen the emergence of a new form of terrorism known as jihadist terrorism. Due to its organisational characteristics, this has brought new challenges that have transformed the idea of national security, losing its traditional character to become a multi-faceted concept with different connotations. Alongside traditional threats of a military or economic nature, the nature of this new terrorism and its close links to the concept of radicalisation have led governments to adopt different strategies that consider the spread of radical ideologies and processes of violent radicalisation as a threat to national security. However, both these concepts remain extremely diffuse due to significant research gaps. At the same time, the need to combat these new threats in the prison environment has transformed the institution itself, which is increasingly distanced from its resocialising role, especially with regard to certain categories of prisoners. Nowadays, prison systems constitute a further instrument of national security. This has led to the creation of a new category of risk considered dangerous to general public security with sui generis status, leading to the standardisation of a series of control measures based on a concept of danger the limits of which are not objectively defined. As a consequence, individuals considered to pose such risks are often subjected to increasingly restrictive prison regimes. The indeterminate nature of the concepts and the subjectivity in the application of the risk assessment criteria make it necessary to reflect deeply on the rationale behind these practices that have now been enshrined in European legislation.