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Post-Conviction Security Detentions: An Approach from Law and Practice

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Abstract: This article compares post-conviction security detentions in thirteen European and U.S. jurisdictions using items 74 and 81 of the RIMES instrument[2], assessing their potential to generate criminal social exclusion. Drawing on criminal policy as a public policy aimed at socially acceptable prevention, and on Díez-Ripollés' inclusion/exclusion framework, the study examines how regulation and practice extend deprivation of liberty based on future dangerousness. Four patterns emerge: (1) countries where law and practice allow long or indefinite detentions; (2) those where the law permits them but practice remains below five years; (3) systems that do not provide for such detentions; and (4) a residual case where prolonged detentions persist despite legal abolition. The findings show that post-conviction detentions are a highly exclusionary form of penal control, especially when indefinite. The paper concludes that evaluating penal exclusion requires considering legislation, real practice, and historical effects, highlighting the need for criminal policies that uphold proportionality, reintegration, and the rule of law.

Keywords: *Social Exclusion, Post-Conviction Security Detentions, Prison, Rimes, Comparative Criminal Justice Policy*

1. Introduction

Criminal policy comprises the set of strategies through which the State seeks to prevent crime, combining normative, institutional, and social tools. Within this framework, security measures, especially those applied after the completion of a sentence, have acquired an increasingly relevant role in various contemporary legal systems. These interventions have traditionally been justified on the basis of dangerousness and recidivism, understood as the probability attributed to a person to commit future offenses.

The regulations governing post-conviction security detentions differ across countries, ranging from those that do not allow such measures to those that have expanded the enabling conditions and, in some cases, admit indefinite durations. This is part of a broader resurgence of preventive justice and a shift toward risk-management policies, phenomena critically examined by various authors due to their tension with the principles of classical criminal law, social reintegration, and fundamental rights.

Within the framework of the inclusion/exclusion dimension formulated by Díez-Ripollés (2011, 2024), which proposes assessing the capacity of States not to increase the

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marginalization of individuals who have already come into contact with the criminal system, post-conviction detentions constitute one of the areas of penal social control where particularly exclusionary effects may arise.

This article analyzes how different countries regulate and apply post-sentence security detentions from this perspective, using items 74 and 81 of the RIMES instrument. The aim is to determine the extent to which these measures contribute to penal social exclusion and to identify political-criminal patterns through international comparison.

2. Theoretical Framework

Criminal policy is a public policy situated within a broader set of public interventions from which it draws and on which it depends for its design. Public policies are understood as interventions by public authorities aimed at influencing specific social realities. In this sense, the function of criminal policy as a public policy is to preserve social order. Criminal policy seeks to achieve this goal through the use of penal social control, understood as the set of legal and social actions aimed at preventing crime (Díez Ripollés, 2024, pp. 2–3).

Crime prevention, as the core objective of criminal policy, aims to significantly reduce both the frequency and seriousness of criminal behaviors. It is neither the task of criminal policy nor realistic to aspire to the absolute eradication of crime (Corral-Maraver, 2020, pp. 17–18; Becerra-Muñoz, 2023, p. 35). When reference is made to socially acceptable prevention, this implies prevention carried out in full respect of the values, principles, and norms that underpin coexistence in a given society. It would not be legitimate to pursue preventive aims by violating the very foundations of the social order that criminal policy seeks to safeguard (Díez-Ripollés, 2024, p. 4).

In this context, the growing interest in the various strategies implemented in different countries to prevent and reduce crime has heightened the relevance of comparative criminal policy studies within the fields of criminal law and criminology (Díez-Ripollés, 2011, p. 2). This has encouraged the analysis of multiple countries with the purpose of examining how their criminal policies affect crime levels, as well as comparing their strategies and outcomes with those of other nations. Indeed, these comparative studies have led to the classification of developed countries into various categories according to their political-criminal traditions and practices (e.g., Brodeur, 2007; Lappi-Seppälä, 2007).

Contemporary comparative criminal policy typically focuses on contrasting national systems according to the level of punitive risk they entail, especially with respect to the institutional violence derived from the exercise of coercive power (Binder, 2010, pp. 214–215). However, according to Díez-Ripollés (2011, p. 6), assessing comparative criminal policy solely on the basis of each system's degree of punitiveness entails theoretical and methodological shortcomings. From a theoretical standpoint, the aspiration toward punitive moderation fits within a limited ideological framework, tied to a humanitarian perspective that merely seeks to prevent the penal system from reaching levels of severity deemed unacceptable. Methodologically, such an analysis is also insufficient, as it often relies almost exclusively on incarceration rates per 100,000 inhabitants.

Díez-Ripollés (2011, pp. 8–9) proposes an alternative approach to comparative criminal policy that does not center on levels of punitiveness, but rather on the capacity of States to

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reduce the social exclusion of individuals who come into conflict with criminal law. From this perspective, attention shifts toward countries adopting a more inclusive approach toward offenders or suspects, seeking to ensure that—after their passage through the criminal system—they find themselves in social and individual conditions equal to or even better than before, allowing them to lead a law-abiding life. In contrast, an exclusionary approach aims to generate contexts that make law-breaking more difficult, even if this entails increased marginalization for those who have already been subject to penal intervention.

The social inclusion model formulated by Díez-Ripollés (2024, p. 14) highlights that an appropriate response by penal social control agencies to deviant behavior can generate positive effects within a socially acceptable framework of crime prevention. These agencies include all institutions whose direct purpose is crime prevention—such as the legislative, executive, and judicial branches (parliament, police, courts, penitentiary system)—as well as other public bodies with related competencies. The model also encompasses non-state auxiliary entities which, under public regulation, carry out preventive functions, including private security companies, corporate security departments, and various social organizations. This model focuses on nine major areas of penal social control capable of producing interventions that lead to socially exclusionary effects.

Among these nine areas are security detentions, which may generate social exclusion. Security detentions consist of preventive confinement based on notions of dangerousness. These preventive detentions may occur either before trial (pre-trial detention) or after the completion of a sentence. Although these forms of preventive confinement may be considered illustrative of the expansion of preventive justice (Zedner & Ashworth, 2019), it is also important to consider their social exclusion effects on the individuals subjected to them (Díez-Ripollés, 2019). In this chapter, we focus specifically on post-conviction detentions—security measures imposed after the completion of the prison sentence—which prolong, sometimes indefinitely, the social exclusion produced by imprisonment.

These types of post-conviction security detentions have experienced significant misuse in various countries in recent years (Díez-Ripollés, 2019, p. 53). Security measures applicable to ex-offenders who are still considered dangerous after completing their sentences are undergoing a period of re-legitimation. This is evidenced by the fact that many countries have introduced new forms of dangerousness and are allowing indefinite post-conviction detentions. These detentions imply the acknowledgment of the penitentiary system's failure in rehabilitation and result in the temporary or permanent social exclusion of ex-offenders (Díez-Ripollés, 2019, pp. 53–54).

3. Methodology

The aim of this chapter is to conduct a comparative analysis of criminal policy regarding post-conviction security detentions in different countries, in order to determine the extent to which their regulation and practice may generate social exclusion or inclusion. To achieve this, the analysis focuses on two items from the RIMES instrument—specifically those related to security detention after the completion of a prison sentence—which constitute one of the two indicators that make up Pool 6 (Díez-Ripollés, 2011, p. 17). Both items focus on one of the four groups examined in the RIMES project: ex-offenders. These types of

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post-penitentiary security detentions have been subject to significant abuses in several countries in recent years (Díez-Ripollés, 2019, p. 53). The RIMES instrument considers whether the legal system permits an *indefinite* security detention (item 74) and whether the *average duration* of this post-conviction detention exceeds five years (item 81).

Items 74 and 81 were resolved for thirteen jurisdictions to assess the extent to which these countries generate social exclusion through their regulation and practice concerning post-conviction security detentions. Specifically, the analysis includes four U.S. states—New York, California, Texas, and Florida—and nine European countries: Germany, Spain, Italy, Finland, France, Poland, Portugal, the United Kingdom, and Romania.

Item 74 concerns a rule. Accordingly, the most common methodology used to resolve it in each country was legislative review, supplemented in some cases by secondary sources.

- In New York, California, and Florida, the analysis relied on consultation of the respective penal codes and specific regulations.
- In Spain and Germany, the same approach was taken, but additionally, the case law of the European Court of Human Rights and the national Constitutional Courts was reviewed.
- In Poland, researchers examined specific legislation as well as two reports: the Polish Government Report on the visit by the European Committee for the Prevention of Torture, and the 2016 Human Rights Report on Poland. An expert from the University of Kraków was also consulted.
- In England and Wales, Finland, France, Texas, Portugal, and Italy, the resolution of item 74 involved both legislation and academic research (e.g., Lévai, 2013; Ogg, 2015; Pishi, 2008; Slobogin, 2012; Lappi-Seppälä, 2008; 2009; Herzog-Evans, 2016).

Item 81 concerns practice. To resolve it, researchers first consulted official statistics. In countries where such statistics did not exist—or did not provide the required information, secondary sources were used. In Italy, data could not be obtained.

- In Finland, Germany, France, New York, and England and Wales, reports, legislation, and official statistics were used.
- In Germany, researchers had to rely on secondary sources (e.g., Dessecker, 2013; Dessecker & Leuschner, 2019), since official statistics did not report the average duration of preventive detention.
- In Florida, both official statistics and secondary sources were used.
- In California, researchers supplemented official statistics by contacting experts from the University of California and the Data Management Office.
- In Poland, they contacted the Penitentiary Service and consulted an expert from the University of Kraków.
- In Spain, the analysis relied primarily on the law—the Spanish Criminal Code—because if the measure does not exist legally, it cannot exist in practice.

Most responses to the two indicators were validated without further observations from experts. For item 74, there was only two exceptions:

- In Italy, the expert review led to a change in the item's response.

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- In the United Kingdom, the expert requested additional information, but this did not alter the item's final classification.

For item 81, experts did not suggest modifying any of the responses, though experts from Germany, Finland, and France recommended providing more comprehensive explanations.

4. Results

The results for the two items selected for this article concerning post-conviction security detentions, obtained through the application of the RIMES instrument in each country and validated by expert review, are presented in Table 1.

Table 1: *Results Obtained by Each Jurisdiction (Items 74 & 81)*

Jurisdictions	Item 74	Item 81
Spain		
Finland		
Portugal		
Romania	YES	
Italy		
Poland	YES	YES
Germany	YES	YES
France	YES	
England & Wales		YES
California	YES	YES
New York	YES	
Texas	YES	YES
Florida	YES	YES

Based on this table, the results can be grouped according to their potential to generate social exclusion or inclusion through post-conviction security detentions:

- Countries/states where both the rule and the practice are exclusionary:
  Germany, California, Florida, Poland, and Texas allow indefinite detention and show average durations exceeding five years.
- Countries/states where the rule is exclusionary, but the practice is not:
  New York, France, and Romania permit indefinite detention in law, but the average duration does not exceed five years.
- Countries/states where neither the rule nor the practice are exclusionary:
  Spain and Finland fall clearly into this group. Portugal and Italy also belong here, since the rule does not allow indefinite detention, although practice data were unavailable.
- Exceptional case — rule not exclusionary, practice exclusionary:
  The United Kingdom represents an anomaly: although indefinite post-sentence detention is no longer allowed by law, the average duration of individuals still held under older sentences exceeds five years.

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Countries Where Both the Rule and the Practice Apply

This section develops the group of countries and states in which both the rule and the practice are fulfilled. In the German case, there is a security measure consisting of post-sentence detention that is added to the prison sentence, whose duration is not established by law and must be determined by the court either in the judgment or afterwards, depending on the case and the circumstances. Although it is true that until 2002 this form of post-sentence detention could not exceed ten years, that limit was removed in 2002, allowing an indeterminate duration whenever the court considered there to be a risk of reoffending. This absence of limits generated controversy before the European Court of Human Rights and the Federal Constitutional Court. For this reason, the German Parliament approved a federal law regulating post-sentence detention, which came into force in June 2013. However, these reforms did not eliminate the possibility of imposing an indeterminate duration.

Regarding practice in Germany, the first study consulted (Dessecker, 2013) shows that almost half of detainees—46%—spent less than five years under post-sentence detention, and another 20% spent between five and ten years. According to the author, the average duration in 2011 exceeded five years and four months. In 2014, individuals still subject to post-sentence detention had been confined for an average of three years and six months. However, those released in that same year had spent an average of 14 years and four months in post-sentence detention. In 2015, those still deprived of liberty under this measure had served almost four years, while those who had been released had spent an average of ten years and six months (Dessecker & Leuschner, 2019).

Other jurisdictions in which both rule and practice are fulfilled include three of the U.S. states analysed. In the United States, persons deemed dangerous may be deprived of liberty through different involuntary commitment mechanisms, mainly affecting two groups: individuals admitted to psychiatric hospitals, and individuals subjected to civil commitment after serving a sentence for sexual offenses, known as Sexually Violent Predators (SVP). Each mode of commitment has specific criteria for admission and eventual release.

First, commitment aimed at offenders with mental disorders was designed to ensure the custody and treatment of individuals with severe mental illness who are therefore considered dangerous. The initial duration is one year, but it may be renewed indefinitely at the request of the district attorney.

Second, commitment applicable to sexually violent predators takes place in units within state hospitals. Two cumulative conditions are required: having been convicted of a sexually violent offense and having a mental disorder making the commission of future acts of the same nature likely. This measure remains in force until the individual proves before a court or jury that continued hospitalization is no longer necessary for public safety, meaning it may also continue indefinitely.

Therefore, in all three states in this first group, California, Florida, and Texas, the rule established in item 74 is fulfilled.

With respect to practice, the 2019 Annual Report of the California Sex Offender Management Board analyses the application of the SVP law. According to the report,

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individuals confined at Coalinga State Hospital remain there for an average of six years, and one in four has been confined for more than ten years. Thus, the practice is fulfilled.

In Florida, Hoppe et al. (2020) report the number of individuals civilly committed for sexual offenses between 2016 and 2018, and data from Prison Policy Initiative provide figures for 2022. All such individuals are housed at the Florida Civil Commitment Center (FCCC). However, there are no official public statistics on time spent in commitment. Only journalistic reports (2011 and 2017) describe prolonged detentions, some exceeding eight years, while individuals await judicial decisions on civil commitment. No information was obtained after direct requests to FCCC or the Florida Department of Children and Families.

The only academic reference identified comes from Wilson et al. (2012), which indirectly suggests that the average stay at FCCC exceeded five years. However, the authors do not provide the source of this data, and it is unclear whether the duration includes only final civil commitment or also the period awaiting judicial resolution. Attempts to contact the Florida Department of Children and Families, the agency responsible for SVP civil commitments—were unsuccessful.

Despite the lack of official statistics, both the 2012 study and 2017 journalistic reports indicate that some SVP-classified individuals experience prolonged and even indefinite detentions, sometimes before commitment is formally ordered. Taken together, this evidence suggests that the item is fulfilled in Florida.

Regarding Texas, publicly available information is also limited. As in Florida, information was found about the number of individuals held, but not the length of their stay. A formal request submitted to the Texas Civil Commitment Office, the state agency responsible for supervising and treating civilly committed SVPs, yielded data indicating that the average duration of civil commitment is 8.91 years. Furthermore, individuals have no fixed release date. Given that commitment may continue for long periods with no predetermined maximum—and therefore exceed an average of five years—the practice is considered fulfilled.

Finally, in Poland, post-sentence detention may be imposed under the *Act on Proceedings with Persons with Mental Disorders Who Pose a Threat to Life, Health, or Sexual Freedom*, approved by the Polish Parliament in November 2013. Individuals may be confined indefinitely in a closed facility if they meet the following criteria:

A) having served a prison sentence in a "therapeutic unit";
B) having a mental disorder (including intellectual disability, personality disorders, or "sexual preference disorders," especially pedophilia);
C) presenting a type or intensity of disorder making the commission of a violent offense highly probable; and
D) the potential future offense is punishable by at least ten years of imprisonment.

Individuals may be placed under "preventive supervision" in the community or confined at the National Center for the Prevention of Antisocial Behavior. The decision is made by a court at the request of the prison director and based on psychiatric and psychological reports, as well as information on treatment and rehabilitation outcomes. Accordingly, Poland also fulfills rule 74.

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Regarding practice, the National Preventive Mechanism Against Torture (MNPT) inspected the Center and reported that "since the beginning of the facility's existence, only one patient has been released." An expert from the University of Kraków stated in personal communication that since the first individual was confined in 2014, she has no knowledge of anyone being released. Despite the discrepancy (one release vs. none), both sources agree that release is extremely rare since the center became operational.

Countries Where the Rule Applies but Practice Does Not

The second group of countries consists of those in which the rule is fulfilled, but the practice is not. In New York, as seen earlier with other U.S. states, the Sex Offender Management and Treatment Act was enacted in 2007, creating a civil-jurisdiction process for managing certain sexual offenders. For a convicted individual to be confined in a secure treatment facility, the procedure set out in Article 10 of the Mental Hygiene Law must be followed. Specifically, section 10.10 establishes that each year the "respondent" (i.e., the confined individual) has the opportunity to request discharge and release. Therefore, there is no time limit or maximum duration for such confinement, meaning New York fulfills the rule.

However, according to data from the New York Office of Mental Health (2017), the average stay in secure treatment facilities was 38.4 months (3.2 years). In the most recent available report, referring to 2018, the average stay was 46.2 months (3.9 years). Thus, unlike the states in the first group, practice does not meet the threshold, despite the rule being fulfilled.

In the case of France, Chapter III of the Code of Criminal Procedure regulates security measures and security supervision. Under Article 706-53-13, a person deemed particularly dangerous and highly likely to reoffend due to a severe personality disorder may be subjected to preventive detention after completing their sentence, provided the original criminal sentence was at least 15 years of imprisonment for serious crimes (murder, torture, rape, kidnapping, among others). The detention order may be imposed only if the criminal court explicitly indicated in the original sentencing judgment that the person could be re-evaluated at the end of their sentence. Article 706-53-161 establishes that the initial detention decision lasts one year but may be renewed annually without limit, with the approval of a multidisciplinary commission. According to academic studies (Van der Wolf & Herzog-Evans, 2015; Herzog-Evans, 2016), these renewals may continue *ad infinitum*, meaning that French law allows preventive detention to be extended indefinitely.

Regarding practice, France has had "security detention" since 2008, later reformed in 2010. This measure applies only to serious crimes with minimum penalties of at least 15 years and may also be imposed for failing to comply with security supervision measures. In France, criminal laws are not retroactive, but this limitation applies only to detention applied *ab initio*, not to detention resulting from breaches of supervision. Because the first possible *ab initio* application could only occur in 2023, no individual could yet have been held for more than five years. Until 2015, *ab initio* security detention had been applied only once, and measures for supervision failures had been applied for very short periods (Van der Wolf & Herzog-Evans, 2015). Although more recent literature exists (Reihanian, 2020; Bauduin,

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2022; Lepoix, 2022), it does not provide data after 2015. Therefore, practice is not fulfilled: the duration of security detention has not yet exceeded five years.

In Romania, the Code of Criminal Procedure regulates preventive measures only before trial or during investigation; there is no post-conviction preventive detention regime. However, the Penal Code, in its General Part, Title IV on security measures (*Măsurile de siguranță*), allows measures to be imposed on dangerous individuals. These include:

- mandatory medical treatment until the person is no longer dangerous, and if they do not comply, hospitalization may be ordered;
- confinement in specialized medical centers for mental illness, chronic drug dependence, or infectious diseases, for an indefinite duration while they continue to pose a danger.

These measures may be imposed in addition to a prison sentence, meaning an offender may remain confined beyond their sentence without any maximum time limit. Therefore, Romania fulfills the rule.

Regarding practice, a study on the duration of stays in psychiatric hospitals under security measures (Parfene, 2022) shows that around 24% of patients remained hospitalized for more than five years. However, this does not correspond to post-conviction measures but rather to individuals who are non-imputable or difficult to treat. As for convicted individuals receiving mandatory treatment in prison, the exact duration is unknown, though the measure must continue until they are no longer dangerous. The hardest cases end up hospitalized, but most long stays (>5 years) involve individuals with incurable or difficult-to-treat illnesses, not dangerous offenders after release from prison. Therefore, item 81—which requires an *average* duration exceeding five years—is not fulfilled in Romania.

Countries Where Neither the Rule Nor the Practice Apply

In Spain, the legislator has not adopted indefinite post-sentence security detention for accountable or semi-accountable offenders. The only post-sentence measure available is supervised release to address potential dangerousness after completion of the prison term. Because the rule does not exist, neither can the practice exist. Thus, neither item applies.

In Finland, legislation previously included a system of preventive detention for dangerous recidivists, which allowed them to remain confined even after completing their prison sentence if courts so decided. In 1971, this measure was restricted to dangerous violent offenders and, in practice, meant they were not released before completing their full sentence.

In 2006, the dangerousness-based preventive detention system was abolished and replaced with a mechanism requiring the full prison sentence to be served without access to conditional release at the final stage. Since then, no post-conviction security measure exists in Finland.

Statistical sources confirm that the category "preventive detention prisoner" stopped being used in 2006 and that no individuals currently fall under this regime. Therefore, neither rule nor practice is fulfilled.

Similar outcomes occur in Italy and Portugal.

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- In Italy, the Penal Code establishes a minimum duration for post-sentence security measures, but no maximum. However, Article 1(1)(c) of Decree-Law No. 52 of 31 March 2014 states that "security measures, including detention in residential facilities for enforcement, may not last longer than the term prescribed for the corresponding custodial sentence." The Constitutional Court (Judgment No. 83/2017) held that this upper limit applies to all custodial security measures. Therefore, the rule is not fulfilled. However, practice cannot be resolved due to lack of statistics; experts report no records exist.
- In Portugal, the Constitution prohibits perpetual or indefinite penalties or security measures. The Penal Code allows security measures, including post-sentence internment, but for accountable individuals this occurs as part of a mixed sentence (first the measure, then prison), not as an autonomous post-sentence measure.

Additionally, the "relatively indeterminate sentence" (RIS), applicable to habitual offenders and certain cases involving alcoholism or drug addiction, may extend confinement beyond the initial sentence due to dangerousness. However:

- the extension cannot exceed six additional years, and
- the total term may never exceed 25 years.

Thus, Portuguese law does not allow indeterminate post-sentence detention, and the rule is not fulfilled. Practice cannot be assessed due to insufficient data, though the use of the RIS is known to be very limited.

Country Where the Rule Does Not Apply but the Practice Does

Finally, in England and Wales, the *Imprisonment for Public Protection* (IPP) sentence was introduced by section 225 of the Criminal Justice Act 2003 (effective from 2005) by Labour Home Secretary David Blunkett. This form of indeterminate imprisonment for dangerous offenders was abolished by the coalition government on 3 December 2012, which described the system as "untenable." However, the change was not retrospective. Consequently, although between 2005 and 2012 indefinite imprisonment for dangerousness was legally available and individuals remain subject to such sentences, the rule is not fulfilled because it no longer exists today.

In practice, because the abolition was not retroactive, the 2019 "Imprisonment for Public Protection" report (p. 20) states that 64% of IPP prisoners remain detained indefinitely five years after the expiry of their tariff. Therefore, practice is fulfilled: in the United Kingdom, post-sentence confinement continues to exceed five years.

5. Discussion

The results obtained through the RIMES instrument show that post-conviction security detentions constitute a central domain for evaluating the extent to which the criminal policies of different countries align with the principles of socially acceptable prevention and with the inclusion/exclusion dimension formulated by Díez Ripollés (2011, 2024). The comparison between regulation and practice reveals different political-criminal models that vary profoundly in their capacity to generate penal social exclusion.

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First, the countries and states in which the rule permitting indefinite detention converges with a practice exceeding five years (Germany, California, Florida, Poland, and Texas) represent the most intensely exclusionary model. As Díez Ripollés (2019) notes, post-sentence detentions prolong—and sometimes aggravate—the social exclusion already generated by imprisonment. In these jurisdictions, the indefinite extension of deprivation of liberty reflects an interpretation of dangerousness that functions as an autonomous basis, becoming dissociated from the committed act and shifting the axis of criminal policy away from prevention within acceptable limits toward a logic of future-risk neutralization. This orientation resembles what Zedner and Ashworth (2019) describe as the "expansion of the preventive state," in which safeguards and proportionality may be subordinated to risk management. In terms of the inclusion/exclusion model, indefinite detention seriously hinders reintegration, consolidates marginalization, and reproduces the cycle of exclusion that criminal policy should avoid.

A second group of countries features systems in which the regulation allows indefinite detention, but the practice does not exceed five years (New York, France, and Romania). This pattern is particularly relevant from a theoretical standpoint. As Díez Ripollés (2011) warns, analyzing normative severity alone can be methodologically insufficient, as it does not always reflect actual penal intervention. In these countries, although potentially exclusionary legal frameworks exist, institutional actors apply the measure with moderation, whether due to judicial controls, legal culture, or institutional capacities. This group shows that it is possible to design policies that, even while maintaining strong preventive mechanisms, operate compatibly with the principles of socially acceptable prevention. However, the latent risk of exclusion persists: the existence of a broad rule always leaves the door open to future expansions of preventive justice, as Zedner and Ashworth (2019) caution.

Third, we find countries where neither the rule nor the practice permits post-conviction detention (Spain and Finland), as well as countries where the rule severely restricts such measures and practice cannot be determined due to lack of data, though it does not suggest indefinite detention (Italy and Portugal). In these systems, the absence or strict limitation of post-penitentiary security measures aligns more clearly with the social inclusion model. As Díez-Ripollés (2024) emphasizes, criminal policy must respect the values and principles that structure social life, avoiding preventive measures that undermine the foundations of democratic order. The absence of dangerousness-based indefinite detention confirms a conception of penal control consistent with the classical limits of act-based criminal law and with the rehabilitative purpose of punishment.

Finally, the case of the United Kingdom presents a singular phenomenon: the current rule does not allow indefinite detention, but the practice continues to maintain it due to the residual effects of previous legislation—specifically, Imprisonment for Public Protection sentences—which were not retroactively repealed. This case confirms Díez Ripollés' (2019) observation that the exclusionary effects of the penal system depend not only on current norms but also on the historical evolution of the system and its institutional inertia. Social exclusion can persist even when the formal system has been reformed, if no measures are taken to correct the accumulated effects of past penal policies.

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Taken together, the comparison shows that post-conviction detentions constitute one of the domains within penal social control that most strongly reveal the tension between prevention and fundamental rights. As a criminal policy tool, such measures can only be considered legitimate if they operate within the boundaries of socially acceptable prevention and do not generate unjustified levels of social exclusion. The countries in the first group clearly depart from this requirement. Those in the second group operate within an unstable balance between inclusion and exclusion. Those in the third group represent models more closely aligned with the theoretical framework. And the United Kingdom illustrates how late reforms may leave groups trapped in highly exclusionary practices despite normative changes.

6. Conclusion

The comparative analysis of post-conviction security detentions allows for several relevant conclusions to be drawn from the perspective of the inclusion/exclusion model:

1. Normative severity is not sufficient to understand criminal policy.
   The distinction between rule (item 74) and practice (item 81) demonstrates that effective criminal policy depends both on legislation and on how penal control agencies actually operate, as Díez-Ripollés (2011) anticipated.
2. The most exclusionary model is the one combining indefinite detention with average stays exceeding five years.
   These systems—present in Germany, Poland, and several U.S. states—reproduce the logic of the preventive state described by Zedner and Ashworth (2019), prioritizing neutralization over social inclusion.
3. Countries with exclusionary regulations but moderate application present a structural risk.
   Even when practice is contained, the existence of broad rules leaves open the possibility of future preventive expansion.
4. Countries without post-conviction detention (or with strict limits) represent models more consistent with socially acceptable prevention.
   Spain, Finland, Portugal, and Italy show that it is possible to protect public safety without resorting to indefinite measures, preserving proportionality and rehabilitation (Díez Ripollés, 2024).
5. Exclusion may persist even when the rule no longer allows it.
   The case of the United Kingdom highlights the importance of considering the residual effects of past policies and confirms that penal exclusion is also a historical and structural issue (Díez-Ripollés, 2019).
6. Overall, post-conviction detention reveals the core tension of the contemporary penal system:
   how to balance risk management with respect for constitutional principles and social reintegration. Where this tension is resolved in favor of dangerousness, exclusionary practices emerge; where democratic values are prioritized, the expansion of preventive justice is curtailed.

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