

Effectiveness of Electronic Monitoring in Achieving the Purposes of Punishment and Protecting the Rights of the Convict and Society

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Abstract

The guidelines for preparing final papers after acceptance for IAI Journal have been presented. This file can be used as template for preparing the final manuscript. This document also gives the instruction for preparing the manuscript. Do not cite references in the abstract. For effective abstract, there should be 200-250 words in the abstract. An abstract is a concise single paragraph text of the work. In a minute or less a reader can learn the rationale behind the study, general approach to the problem, pertinent results, and important conclusions or new questions. Write your abstract after the rest of the paper is completed. Economy of words is important throughout any paper, but especially in an abstract. However, use complete sentences and do not sacrifice readability for brevity. You can keep it concise by wording sentences so that they serve more than one purpose. It has limited background information to a sentence or two, if absolutely necessary. It is always written in past tense.

Keywords: Electronic Monitoring, Alternative Sentencing, Criminal Justice, Offender Rehabilitation, Community Protection, Punishment Objectives

1. Introduction

The concept of punishment is linked to the idea of justice and stability in society. Punishment is not merely a coercive means, but rather a method to achieve three main objectives: general deterrence for society, specific deterrence for the offender, and the realization of justice. However, traditional punishments have failed to fully achieve their purposes, prompting those concerned with criminal justice to develop criminalization and punishment policies capable of addressing the phenomenon of crime. Thus, the idea of alternatives to short-term deprivation of liberty as supportive measures emerged, aimed at achieving these objectives. For instance, community service orders, probation, and the electronic monitoring system, which is the subject of our study in this research, came to light. The idea of electronic monitoring in the criminal field began in the United States in 1964 when the American brothers, Schwartzgebel, who were scientists at Harvard University, conducted the first experiment to remotely locate a specific person. They called it human behavior technology, aiming to monitor bodily and neurological signals in a specific location.

Subsequent similar experiments followed, including one in St. Louis, USA, in 1971. In 1977, Judge Jack Love of the United States was fascinated by the idea of locating certain living creatures using electronic means, proposing the idea of placing a device on a person's wrist to track their movements. He presented this idea to his superiors, attempting to convince them of its benefits, and successfully persuaded software distributors at the American company Honeywell. He then left his position in the judiciary to personally produce the transmitter device. In 1983, he experimented with the electronic bracelet before the issuance of the first modern decision to place five young defendants under electronic monitoring. After the success of this experiment, several European countries, led by France and Canada, as well as some Arab countries, adopted this system. The first appearance of the electronic monitoring system in federal legislation was in Federal Law No. 17 of 2018, amending some provisions of the Code of Criminal Procedure No. 35 of 1992.

This was followed by some executive decisions, such as Cabinet Decision No. 53 of 2019 concerning the implementation of electronic monitoring, and Ministerial Decision No. 426 of 2020 regarding the mechanisms for implementing electronic and police monitoring. The system was recently found in the latest amendments to the Federal Criminal Procedure Law No. 38 of 2022.

Law No. 38 of 2022 defined the electronic monitoring system in the first paragraph of Article 383 as follows: "The procedure of placing under electronic monitoring entails preventing the defendant or convict from being absent outside the specified times from his residence or any other place designated by the order issued by the Public Prosecution or the competent court, as the case may be. It is implemented through electronic means that allow remote monitoring, and the person subject to it is required to wear an integrated electronic transmission device throughout the period of being under monitoring."

It is worth mentioning that the electronic monitoring system may be used as an alternative to pretrial detention and as an alternative to custodial sentences. However, our study will focus on the concept of the electronic monitoring system as an alternative to custodial sentences, and the extent of its effectiveness in achieving the purposes of punishment and ensuring the same rights guaranteed by traditional punishment as it serves as its alternative. As the convict serves their sentence outside prison walls, in the midst of the society that may be affected by the application of the punishment, particularly the convict's family living with them, concerns arise regarding the violation of privacy, the impact of electronic monitoring signals, the feelings of the victim and their family, and the community's reaction to the absence of the traditional criminal penalty. This raises concerns about general deterrence when they see the offender free among them. Therefore, it is imperative to allocate part of the study to examining the impact of the electronic monitoring system on society.

1.1. Importance of the Study

The importance of this study lies in its relevance to the interests of an entire society. Excluding a punishment that aims to achieve certain objectives, such as rehabilitating the offender and protecting society through general and specific deterrence, would result in the spread of crime and the absence of security and stability in society. Moreover, some may find it easier to commit crimes when they see that punishment has been replaced. At the same time, this study addresses the protection of human bodily integrity and rights. It is illogical to focus on rehabilitating a person while ignoring their human rights, necessitating a study of this system to ensure it achieves the same objectives while preserving the rights of both the convict and society.

1.2. Objectives of the Study

This study aims to provide a comprehensive overview of the electronic monitoring system, encompassing all parties affected by its application. It also seeks to discuss some practical issues raised by this system, offering suggestions to avoid them or at least

drawing the attention of concerned parties to address them.

1.3. Study Problem

Given the importance of electronic monitoring and extensive readings on the topic, it has been revealed that most have overlooked the impact of this system on society, as well as its role in achieving the purposes of punishment, despite being an alternative to traditional punishment. This results in serious effects on both individuals and society. Thus, we have decided to dedicate this study to examining the balance that the electronic monitoring system strikes between achieving the purposes of punishment and rehabilitating the offender, as an alternative to custodial sentences, while also protecting the rights of the convict and society, as the convict serves their sentence within the community.

1.4. Methodological Framework

The method followed in this research is the analytical method, through a detailed description and analysis of the existing legislative reality in UAE law, while also reviewing various opinions from other fields such as psychology, behavior modification, and philosophy, in addition to legal opinions. This provided us with a comprehensive perspective from various angles, helping us to evaluate the topic more deeply.

1.5. Legislative Framework

In our study, we relied on:

- Federal Criminal Procedure Law No. 38 of 2022
- Cabinet Decision No. 53 of 2019 regarding the implementation of electronic monitoring
- Ministerial Decision No. 426 of 2020 regarding the mechanisms for implementing electronic monitoring and electronic police monitoring

1.6. Field Methods

In this study, we followed a qualitative approach, specifically personal interviews, by conducting interviews with individuals connected to the subject under study.

- **First Participant:** Doctor and behavior modification specialist
- **Second Participant:** Electronics engineer and researcher in electronics
- **Third Participant:** Captain at the General Command of Abu Dhabi Police
- **Fourth Participant:** Lawyer at a private law firm
- **Fifth Participant:** Legal advisor at a private firm

1.7. Study Plan

We divided our study into two main chapters: the first chapter addresses the electronic monitoring system and its impact on society, given that the convict serves their sentence within the community, focusing on the concept of achieving justice and general deterrence. The second chapter addresses the impact of the system on the convict, as it is important to study the effect of the system in achieving specific deterrence and the sufficient guarantees for the convict.

2. Chapter One: The Electronic Monitoring System and Its Impact on Society

As previously noted, the electronic monitoring system is considered an alternative to custodial punishment. However, a fundamental question arises: why should we replace custodial punishment? To what extent is it just to exclude criminal sanctions in the form of deprivation of liberty, thereby depriving society of its right to punish the offender? What are the deterrent and psychological effects on society of replacing custodial punishment with an alternative, such as the electronic monitoring system? These are the questions we will explore in this chapter through two main topics: the first addresses the justifications for resorting to electronic monitoring and its role in achieving justice, while the second focuses on the impact of the electronic monitoring system on society.

2.1. First Section: Justifications for Resorting to Electronic Monitoring and Achieving Justice

Undoubtedly, society's view of punishment has evolved alongside the development of civilizations. This is due to changing societal concepts over time, which have shaped how societies view crime and criminal behavior, and consequently, how they view the offender. Initially, societies viewed punishment as a means of vengeance and retribution, often taking on a brutal nature. Over time, punishment evolved into the restriction of freedom, with the introduction of imprisonment and detention. However, this too has shifted, and the primary goal of punishment has become the rehabilitation of the offender and their reintegration into society. Furthermore, efforts are now made to reduce crime through societal involvement. This was followed by the preventive stage, wherein societies attempted to control the conditions that lead to crime, neutralize them, or at least minimize them.

As a result, the approach to penal treatment is continuously evolving, aligning with the development of penal policies and the objectives that societies seek through punishment.

Given that the current perspective on punishment has shifted towards rehabilitating the offender, and since traditional custodial punishment has largely failed to achieve this goal — as will be discussed in detail — most modern criminal laws have sought to rationalize the use of custodial sentences and introduce alternative punishments to mitigate the drawbacks of imprisonment. One of the most prominent alternatives is the electronic monitoring system. Since one of the key benefits of implementing the electronic monitoring system is to avoid the disadvantages of custodial sentences, we will simultaneously discuss the advantages of this system and the drawbacks of custodial punishment. This will allow us to examine the negative effects of custodial punishment and to what extent we can genuinely claim that such punishments have failed to achieve their objectives, prompting the need to replace them with alternatives, particularly the electronic monitoring system under study.

2.2. Drawbacks of Custodial Punishment

The justifications for moving away from custodial punishment can

be summarized as follows:

- **Cost Efficiency**

It is widely known that the state incurs significant expenses to provide for the care, clothing, and feeding of inmates within correctional institutions, in addition to rehabilitation programs, medical treatment, and other necessary expenses. The electronic monitoring system helps alleviate the state's financial burden, as those subject to electronic monitoring can continue to work and provide for their families, reducing the need for the state to provide social assistance. Moreover, the costs associated with electronic monitoring, such as purchasing equipment and training staff, are far lower than the costs of maintaining inmates in correctional institutions. *Our opinion aligns with this view, as the system significantly reduces the financial burden on the state, while also allowing the individual under monitoring to contribute economically, which enhances the state's economy without depriving the monitored person of their livelihood.*

- **Reducing Prison Overcrowding**

Overcrowding in prisons leads to poor sanitary conditions and the spread of diseases, particularly with the emergence of new diseases such as COVID-19 and its variants. Additionally, overcrowding can lead to increased violence among inmates due to the psychological strain of being confined in isolated cells. Furthermore, inmates are often individuals who pose a danger to society, having been incarcerated for committing crimes. *The electronic monitoring system can help reduce prison populations, thus alleviating these issues.*

- **The Potential for Increased Criminality**

Inmates' interaction with each other can lead to non-hardened criminals becoming more deeply involved in criminal activities by associating with more serious offenders. This can result in a deterioration of behavior and increased inclination toward crime and aggression.

This was confirmed by a behavior modification specialist, who stated that human nature tends to mimic and be influenced by its surroundings. Placing individuals who committed minor offenses together with seasoned criminals can lead them to follow the same path. Even without direct friendships forming, simply being in the same environment can negatively influence behavior. At this point, rehabilitative programs may fail to achieve their goals due to the profound influence of the environment on human behavior, especially for individuals whose prior circumstances have already weakened their willpower. *Similarly, another perspective suggests that custodial punishment has lost its ability to fulfill its purpose, as evidenced by increasing rates of recidivism and the growing crime rates in society.*

- **Difficulty in Individualizing Punishment**

Due to the overcrowding in correctional institutions, it becomes practically difficult for the authorities to tailor

punishments to individual cases. *We believe that one of the most important goals of punishment is the rehabilitation of the offender, which cannot be achieved through a one-size-fits-all approach. A behavior modification specialist confirmed that methods of addressing human behavior vary depending on the individual's nature.* From the above, we see the importance of implementing alternative punishments, especially electronic monitoring, as it offers several advantages, including the ability to individualize rehabilitation strategies. In overcrowded prisons, the chance for inmates to fully benefit from costly rehabilitation programs is limited, despite the significant financial and effort investments the state makes to reform offenders. The question that remains is: Is it just to exclude a criminal sanction, depriving society of its right to achieve justice through the imposition of penalties? Does the application of the electronic monitoring system support the concept of justice, or does it undermine it?

2.2.1. Electronic Monitoring System and the Achievement of Justice

Legal systems aim to achieve three main objectives: justice, legal stability, and the common good. Justice stands as the supreme value that all legislations strive for. The introduction of the electronic monitoring system allows offenders to remain free outside correctional facilities, raising concerns among some regarding the fairness of this system. This concern stems from a natural human instinct that calls for rewarding good actions and punishing bad ones, thus necessitating the imposition of penalties on offenders for the harm they have caused to society. The significance of punishment in society lies in achieving justice as a social value, aimed at rectifying the harm inflicted by the offender. However, the question arises: Can we say that the electronic monitoring system violates the principle of justice and deprives society of its right to impose fair penalties on offenders? In our view, the electronic monitoring system serves as an alternative punishment applicable to specific types of less serious crimes, thus mitigating the criminal threat to society. Furthermore, this system preserves society's right to achieve criminal justice, as it allows offenders to continue working and earning a living, enabling them to compensate their victims and their families.

For instance, in a program conducted in Genesee County, New York, offenders were spared from incarceration while being held accountable for their actions towards their victims and society. Additionally, there was a commendable initiative in Genesee County where restorative meetings were arranged between offenders and victims to promote reconciliation objectives. This approach fulfills justice while ensuring safety and stability in society. A behavior modification specialist indicated that when an offender commits a crime and then takes responsibility for their actions, this fosters a sense of justice, as the focus shifts to repairing harm and restoring rights rather than seeking revenge through imprisonment, especially in cases of minor crimes that do not threaten public safety. Some opinions suggest that imposing penalties can sometimes conflict with the requirements of justice, particularly when the crime committed is a reaction to injustice

suffered by the offender. This situation leads to a greater injustice against the community, diminishing the offender's belief in penalties as just retributions and undermining the moral values associated with them.

We largely agree with this perspective, as many offenders commit their crimes as a result of the injustices they have faced. This complicates the balance of justice, as punishing the offender effectively punishes the victim twice—once for the initial harm inflicted and again for their reaction to that harm. According to psychologists and behavior modification experts, experiencing injustice or harsh conditions can foster resentment toward society and a desire to inflict harm. Therefore, punishing the offender for their actions may lead to counterproductive results. This leads us to conclude that the electronic monitoring system facilitates the pursuit of justice by keeping these offenders out of correctional institutions and providing them the opportunity to reform their behavior outside the detrimental environment of incarceration. Moreover, the application of the electronic monitoring system is subject to the discretion of the judge, who assesses the circumstances of each case and the moral standing of the offender. This enables the possibility of imposing custodial sentences on those who deserve punishment while allowing those with greater potential for reform to avoid the negative consequences of imprisonment by applying the electronic monitoring system.

In summary, the electronic monitoring system possesses numerous advantages that contribute to the achievement of criminal justice and protect offenders from the psychological and ethical harms associated with custodial sentences, which can create more criminal individuals. Thus, it is challenging to assert that incarcerating all offenders, regardless of the severity of their crimes, achieves justice. From our perspective, the implementation of this system supports the concept of justice. However, what are the implications for society resulting from the implementation of this system in terms of deterrence and the financial impacts of its application? This will be discussed in the following section.

2.2.2. Second Section: The Electronic Monitoring System and Its Impact on Society

In the first section of this discussion, we concluded that the electronic monitoring system does not undermine the idea of achieving legal and social justice; rather, it supports the realization of justice.

On the other hand, the concept of general deterrence as a goal of punishment is fundamental and should not be overlooked. What is the impact of implementing this system on achieving sufficient deterrence for society? What are the perspectives of victims and their families regarding this? This is what we will discuss in this section.

2.2.3. Impact of Implementing the Electronic Monitoring System on Community Safety

According to the electronic monitoring system, a device resembling a bracelet is attached to the wrist or ankle of the individual subject

to the system. This device continuously tracks their movements through signals emitted by these devices, as outlined in the first paragraph of Article 383 of the Federal Criminal Procedure Law.

2.2.3.1. Health and Safety Concerns

This raises questions about the potential dangers of the emissions and frequencies generated by electronic monitoring devices on the health and safety of both the monitored individual and the surrounding community. Could those near the monitored individual be affected by these signals?

An electronic engineer and researcher in this field has indicated that many tracking devices, such as GPS devices, are widely used in everyday life, including smartphones and various applications like step-counting apps. As these devices have become integral to our lives, they have been developed to ensure human safety to the extent that their risks are negligible. These devices operate within specific frequency ranges and methods that do not harm human safety. The same applies to devices used in the electronic monitoring system, as they do not pose any harm to the health of the monitored individuals or those around them.

Furthermore, the wave frequency used in current devices is considered safe for humans; the emissions they produce are minimal and non-threatening, in contrast to some types of emissions that may cause cancer, such as X-rays. The researcher also notes that we are exposed to more harmful emissions in our daily lives, such as from sunlight and other natural sources, which pose greater risks than those encountered by individuals subject to electronic monitoring and their immediate surroundings. Based on this, implementing the electronic monitoring system does not endanger the safety of the community surrounding the monitored individual, which is crucial since any form of punishment should not compromise the safety of community members. Punishment is imposed primarily to protect society. It is worth mentioning that the federal legislator has prioritized the safety of devices used in the electronic monitoring system by mandating specific specifications and standards that do not pose risks to human health, as outlined in Article 5 of Ministerial Decision No. 53 of 2019 regarding the implementation of electronic monitoring.

2.2.3.2. Impact on Privacy of the Monitored Individual's Family

However, what is the effect of implementing this system on the privacy of the monitored individual's family? As is well known, those subject to electronic monitoring serve their sentences at home with their families, and law enforcement officials conduct surprise visits to the monitored individual's home to ensure compliance with the imposed restrictions. It is indisputable that having the family of the monitored individual bear this burden is ethically unacceptable, as the offender alone is responsible for the consequences of their actions. Since the monitored individual does not enjoy the presumption of innocence due to a judicial conviction, this provides a strong legal justification for such a minor intrusion into the home and private life, aimed at preserving

public safety and enforcing just criminal penalties.

It is evident that being under an electronic monitoring system, which entails this minor intrusion, is still less intrusive on the privacy of the monitored individual than confinement within a correctional facility. But what fault lies with the offender's family that they should bear these repercussions? Some opinions argue for the necessity of obtaining the consent of those living with the monitored individual as a condition for implementing electronic monitoring. While we do not agree with the idea of requiring consent as it infringes on constitutional rights, we acknowledge the importance of obtaining the family's consent as long as these visits are conducted in a manner that respects the dignity of the household members and does not constitute any form of intrusion. These visits should be friendly and conducted by plainclothes officers to avoid drawing attention and exposing the monitored individual's family to any embarrassment.

Thus, the execution of this system through field visits to the home of the monitored individual does not violate the privacy of the residents living with them. Seeking the consent of the monitored individual's family serves the purpose of allowing household members to express their opinions, as this dwelling holds personal significance for its occupants, and anyone has the right to welcome whom they choose, provided no violations occur. In all cases, the competent authority should conduct a comprehensive study of cases before implementing electronic monitoring, considering the criminal, social, and psychological aspects, as well as any potential obstacles to its implementation. Therefore, if any obstacles exist that prevent the application of the system on the monitored individual, it can be decided not to implement it or to find alternative solutions, such as relocating the monitored individual to another place, thus sparing their family and housemates any disturbances.

2.2.4. Impact of Implementing the Electronic Monitoring System on General Deterrence

Undoubtedly, the purpose of punishment extends beyond merely affirming the authority of the law; it encompasses another aim: general deterrence for all individuals subject to criminal law, known as the deterrent function of punishment. Despite the role of punishment in deterrence, some diminish its importance, arguing that it addresses all individuals regardless of their character, which is not universally applicable across the community. Some opinions suggest that achieving general deterrence is not merely a matter of imposing penalties but relies significantly on the speed of crime detection, the apprehension of offenders, and the prompt application of suitable punishment. Offenders may commit crimes due to psychological factors, such as guilt complexes and a desire to harm themselves by deliberately committing offenses, seeking punishment.

From our perspective, we believe that imposing criminal penalties does have an effect on deterrence and prevention. The assertion that punishment does not deter certain individuals is valid. An attorney noted from her extensive experience that she has witnessed numerous offenders returning to crime despite the pain

inflicted by imprisonment and the inclination of some to impose penalties on them. The reality is evident, as many offenders commit their crimes despite severe penalties prescribed in the Federal Penal Code and its complementary laws, such as the death penalty and life imprisonment, without these consequences serving as a deterrent. A psychologist and behavior modification specialist emphasized that the effectiveness of punishment in achieving similar outcomes is not uniform across all individuals. Some possess aggressive traits due to behavioral disorders or difficult circumstances they faced in childhood, or because of injustices they have endured, rendering punishment ineffective as a deterrent. Others may experience hormonal imbalances that heighten their attraction to risky or prohibited behaviors, viewing crime as a form of excitement, just as they perceive punishment. Thus, punishment may fail to achieve its intended goal, regardless of its severity.

The role of alternative penalties, including electronic monitoring, emerges as a new approach to penal treatment. As previously mentioned, the implementation of this system is at the discretion of the court, based on assessments conducted by police officers if the individual has not been placed in a correctional facility, or based on reports from the public prosecution after the offender has served half their sentence and requests release under the electronic monitoring system. Therefore, the possibility of applying electronic monitoring or imposing a penalty can be evaluated. Here, we raise the question of society's perspective on the electronic monitoring system and its impact on them in terms of deterrence. In other words, does the electronic monitoring system serve as a deterrent, or does its implementation make individuals more lenient in committing crimes? As we pointed out, the effect of punishment is relative to offenders, and the same applies to its effect on deterrence. Throughout history, we have witnessed crimes occurring despite severe penalties. Similarly, the electronic monitoring system may deter some while failing to do so for others; however, this does not undermine its effectiveness or impact in achieving the objectives of punishment. Human behavior and reactions are diverse.

We must also consider the psychological impact of implementing the electronic monitoring system on victims and their families. Does applying this system to someone who has assaulted an individual or a family member foster resentment towards the law and society, potentially leading to an increased inclination to commit crimes? Returning to the notion of the relativity of reactions and their variability, it remains important to recognize the value of the electronic monitoring system. As mentioned earlier, what is crucial for society is the restoration of rights and the compensation of victims and their families. If the implementation of the system leads to discontent among victims and their families despite compensation, we cannot disregard the application of the system solely to appease the victims and their families while ignoring its benefits and impact on rehabilitation. The reformation of the offender contributes to the overall improvement of society and the promotion of security and stability within it. Ultimately, the interests of the community outweigh those of the individual.

3. Chapter Two: The Electronic Monitoring System and Its Impact on the Offender

After discussing the rationale for resorting to the electronic monitoring system, addressing the drawbacks of custodial penalties and their relative ineffectiveness in achieving their purpose with some individuals in society, and the importance of having an alternative system to support custodial punishment in fulfilling its rehabilitative goals, we examine the impact of the electronic monitoring system on the offender. This allows us to evaluate the extent to which it can complement custodial penalties. It is also essential to understand the guarantees that this system provides to the person subjected to it, as it is illogical to consider reforming an individual without considering their human dignity. This chapter will be discussed through two sections: the first addresses the electronic monitoring system and the idea of specific deterrence and rehabilitation, while the second explores the electronic monitoring system and the guarantees for the sentenced individual.

3.1. First Section: The Electronic Monitoring System and the Idea of Specific Deterrence and Rehabilitation

In his book on crimes and punishments, Cesare Beccaria emphasizes that punishments must be swift and severe enough to outweigh the pleasure one may derive from committing a crime in order to achieve the necessary deterrence for the future.

3.1.1. To what Extent Does the Electronic Monitoring System Achieve Specific Deterrence for Offenders?

Some argue that electronic monitoring may be more deterrent than imprisonment. From a psychological perspective, many offenders find the restrictions imposed by electronic monitoring to be punitive to a certain extent, depending on their perceptions of punishment based on their characteristics and the nature of the offense. We concur that electronic monitoring can deter offenders, especially since, as mentioned previously, this system allows for the imposition of penalties outside the confines of prison. This enables the penal authority to implement the principle of individualized sentencing aimed at rehabilitating offenders. Additionally, the approach to modifying an individual's behavior should not be uniform but should instead consider each case on its own merits. The federal legislator has not limited the implementation of electronic monitoring to merely serving a sentence outside of prison while carrying an electronic monitoring device. Instead, it has established constraints and regulations for the offender based on individual circumstances. Among these constraints, Article 400 of the Federal Criminal Procedure Law outlines the following:

- Any changes to the offender's job or place of residence.
- If the offender wishes to travel or be absent from their designated residence for more than fifteen days within the country, they must inform the authorities, including their return.
- Acceptance of periodic visits from the designated officials outlined in Article 386 of this law to verify their living conditions and adherence to their obligations under this section.

Additionally, Article 10 of the Cabinet Decision stipulates the following obligations for the offender:

- To carry the electronic monitoring device throughout the monitoring period.
- To notify the relevant public prosecution authority of any changes to their job or residence, reporting through the ministry or relevant authorities.
- To notify the relevant public prosecution authority if they wish to leave their designated residence for more than fifteen days within the country, stating the reasons and also informing them upon their return, using the ministry or relevant authorities for communication.
- Not to violate the monitoring scope or any restrictions imposed by the public prosecution or the competent court as applicable.
- To comply with monitoring and visiting by those responsible for electronic monitoring.
- To maintain the electronic monitoring device without tampering with it or causing damage or malfunction.
- Not to leave the country without permission from the public prosecution or the competent court; if permission is granted, they must notify the public prosecution upon their return.
- To follow any instructions issued to them by those implementing the monitoring.

A lawyer confirmed that based on her extensive experience in the field of law, she found that the recidivism rate among individuals after their release from prison is significantly high. The head of the General Command of Abu Dhabi Police reported that this system has been applied to a considerable number of individuals, and it has been appropriate for them as they were integrated into society and with their families. On the other hand, there are also individuals who have returned to criminal behavior, necessitating their return to the correctional institution and the reinstallation of electronic monitoring devices. This underscores the concept of the relativity of deterrence; however, it does not diminish its importance and role in the rehabilitation of some individuals. It is worth mentioning that there are rehabilitation programs in collaboration with several entities, including the Red Crescent and the Department of Community Development, which facilitate the reintegration of those under supervision into society by involving them as volunteers in various initiatives. Additionally, the police monitoring and post-release supervision department has a social worker who monitors the status of each individual under supervision, providing periodic reports on each individual's situation, addressing their requests and needs, and guiding them towards solutions in coordination with relevant entities. Furthermore, the legislator has mandated that convicted individuals attend rehabilitation courses and programs.

This implies that the process does not merely involve releasing the individual from the correctional institution and placing an electronic monitoring device on them; rather, there is a comprehensive system of rehabilitation and training that fosters a sense of responsibility within the offender. As noted, the crimes subject to this system are characterized by their simplicity, which does not justify their imprisonment and the denial of their opportunity for rehabilitation.

This raises the question: What is the impact of allowing the offender to choose their own fate, taking their opinion and consent into account before applying the electronic monitoring system? Does this have a role in deterrence and rehabilitation? One opinion asserts that it is essential to grant convicted individuals under the system this freedom, especially when we are discussing minor offenses. Instead of imprisoning them among dangerous criminals, it would be better to keep them with their families, as this may motivate them not to commit crimes again. However, they should be given the freedom of choice only once, and they should be warned that this opportunity will not be granted again, making them cautious and vigilant about their actions to avoid losing this chance. This aligns with the freedoms guaranteed to individuals, allowing them to choose their punishment, especially since these are minor offenses.

Another opinion suggests that the legislator's motivation for this approach stems from the novelty of the system and the lack of sufficient practical experiences, which necessitates providing adequate guarantees for the convicted individual to facilitate the implementation of this system. To achieve adequate deterrence, it is better not to allow the convicted individual to choose their punishment. From a psychological and behavioral perspective, a doctor and specialist in behavior modification stated, "As a specialist in behavior modification, I believe in always giving the child or individual the option and recommend allowing them to make choices; because when a person is given a choice, they will feel that they have control over their life. The same applies to the offender; they will feel a greater sense of responsibility when we allow them to make the decision, thus they will be more committed because they chose their punishment themselves. If someone else chooses for them, they are less likely to comply, especially since we are talking about a person who has committed a crime, meaning they may have deviant tendencies.

If they have violated social norms and committed acts criminalized by the legislator due to their representation of a core value for this society, it is not difficult for them to violate some restrictions imposed by the punishment imposed on them coercively. Thus, they will feel that the imposed restrictions are a heavy burden that makes them rebel and seek to break free from them, unlike when these restrictions are a result of their free will. Therefore, granting the offender the option within certain constraints will contribute to their rehabilitation and make them feel like a valuable person, which will lead them to amend their behavior. We are always capable of rehabilitation, and trust after committing a crime contributes to our behavioral modification." We are inclined to grant the convicted individual the option to determine their fate as it may lead to the rehabilitation of the offender's behavior, after conducting a case study as the federal legislator has done to ensure the applicability of the system to them. We also believe in the necessity of having a behavioral specialist in addition to a social worker, as the behavioral specialist has a deeper understanding of human psychology and the methods of modifying the offender's behavior.

This raises the question of whether the electronic monitoring system should be applied directly or after the convicted individual has served a period in the correctional institution; which is better for rehabilitating the offender? Should the convicted individual be spared the consequences of imprisonment and have the electronic monitoring system applied directly, or should they serve part of their sentence in the correctional institution before being released and subjected to this system? One opinion holds that this should be assessed based on each individual case; perhaps witnessing the harsh reality of correctional institutions will instill a sense of freedom in the convicted individual. Another opinion confirmed that both the electronic monitoring system and custodial punishment have advantages and disadvantages that may be more suitable for one individual and less so for another. It is essential to conduct research on the case and the reactions of the convicted individual to determine which of the two penalties is more effective and beneficial for their rehabilitation. This aligns with what the doctor and specialist in behavior modification asserted, highlighting the agreement between legal perspectives and those of psychology and behavior modification concerning the relativity of deterrence and reactions.

There is no single response; what may be effective for rehabilitating one offender may be contrary for another. The determining factor here lies in the assessment of a psychology and behavior modification expert, considering the circumstances of each case individually. This relates to the impact of implementing the electronic monitoring system on adults, but what about the idea of applying this system to juveniles, and what is its effect on them? Article 11 of the Juvenile Offenders and At-Risk Youth Law stipulates a range of judicial measures that the court may impose on a juvenile offender if convicted of a crime, including electronic monitoring. But did the legislator act appropriately in permitting this system to be applied to juveniles? One opinion suggests that applying the electronic monitoring system to juveniles is the best approach for dealing with them, given their young age and to provide them with the opportunity for rehabilitation and returning to the right path before their freedom is curtailed. The electronic monitoring system serves as a deterrent for any criminal act.

Another opinion added that having the juvenile within their family makes them feel more secure, contributing to their rehabilitation more than being in correctional institutions. While we agree with the idea of the security that comes from having the juvenile among their family, at the same time, we cannot consider it a universally successful method for deterring and rehabilitating juveniles. Especially since, in most cases, the juvenile's delinquency stems from poor upbringing or the family's inability to control their behavior or shield them from environments that may contribute to their corruption, such as peer pressure. Their presence in specialized juvenile correctional institutions, which offer rehabilitation programs and continuous monitoring, removes them from the environment that contributed to their delinquency. We believe that the court should exercise its discretion based on the recommendations of social and behavioral specialists regarding whether to apply the electronic monitoring system, depending

on the circumstances of each case. This is in line with what the federal legislator stated in Article 13 of the Juvenile Offenders and At-Risk Youth Law, which provides that "the court may place the juvenile offender under electronic monitoring to prevent them from attending places that are proven to influence their delinquency."

This means that the decision to apply the system is at the court's discretion, allowing for its application where special circumstances allow for the family's ability to rehabilitate the juvenile, while excluding this system for those whose families lack the ability to effectuate rehabilitation.

Article 36 of the same law states in its second paragraph: "The juvenile offender may be granted permission to visit their relatives while being placed under electronic monitoring, and this shall be determined by a decision from the Public Prosecution after reviewing the report of a child protection specialist and based on the recommendation of the director of the juvenile institution and organizing the executive regulations of this law regarding the conditions and controls for granting this permission." We concur with the legislator in granting the juvenile the opportunity to visit their relatives if it is determined by the institution that their release will not negatively affect their rehabilitation. Keeping them for a period in correctional institutions ensures their rehabilitation, while allowing them to visit their relatives under electronic monitoring will provide them with a sense of safety and belonging within their family. We believe that spending time in such institutions makes them more appreciative of their family, leading to compliance and a desire to please them, thereby contributing to their rehabilitation and preventing a return to criminal behavior.

3.2. Second Section: Electronic Monitoring System and Guarantees for the Convicted

According to general principles, one of the most important guarantees that ensure the rights of the convicted during the implementation of their punishment includes the principles of legality and equality, respect for human dignity in punishment, and judicial intervention. Given that the electronic monitoring system functions as an alternative punishment, it is logical to subject it to the same principles and guarantees. However, since the principle of criminal legality, which states "no crime and no punishment except by law," has been conclusively organized by the federal legislator in the Federal Criminal Procedure Law No. 38 of 2022 and in the Cabinet's decision No. 53 of 2019 regarding the implementation of electronic monitoring, there is little benefit in discussing it further. Furthermore, judicial intervention is evident, as demonstrated in the report on the application of the electronic monitoring system and the follow-up by the Public Prosecution. Thus, we will limit our discussion in this section to the concepts of respecting human dignity and the extent to which this system aligns with the principle of equality.

3.2.1. The Electronic Monitoring System and Respect for Human Dignity

As is well-known, the electronic monitoring system imposes restrictions on the convicted individual and tracks their movements

through a device implanted in their body. To what extent is this justified? One opinion has relied on the idea of conflicting interests to justify resorting to electronic monitoring. It argues that despite criticisms regarding violations of the convicted individual's privacy and dignity, we should view this in light of the current situation in correctional institutions, where there is a significant increase in the number of inmates and the mixing of dangerous and non-dangerous offenders. This situation renders the violations associated with electronic monitoring negligible compared to the privacy violations experienced within correctional facilities.

This leads us to conclude that the electronic monitoring system serves as a significant guarantee for the convicted, shielding them from the negative influences of a corrupt society and avoiding the disadvantages of incarceration that were discussed in the first section of this research. One commentator has also explored some philosophical questions regarding whether electronic monitoring violates personal privacy and has arrived at the following conclusions:

- The restrictions and privacy violations experienced by offenders under electronic monitoring aim to enhance the rehabilitative potential of the punishment and reinforce system control over offenders.
- The purpose behind intrusive actions appears legitimate, as privacy violations are intended to protect the public and are designed to genuinely assist the offender.
- The restrictions and privacy violations are linked to the goal of controlling and rehabilitating the offender.
- This approach represents the least intrusive means possible, as indicated by offenders who perceive the restrictions as necessary and consider the subsequent privacy violations to be less intrusive than imprisonment.
- Procedural restrictions are in place that limit the manner of intrusive actions and dictate how intervention procedures are implemented.
- No personal information disclosed will be published unless a crime against the state occurs, in which case offenders are provided the opportunity to present their cases through various appeals.

It should be noted that the federal legislator has stipulated in Article 5 of the ministerial decision regarding electronic monitoring that the means used for monitoring must guarantee privacy, the sanctity of private life, and the confidentiality of data and information. This indicates the state's commitment to imposing penalties in a manner that does not infringe upon the rights of the convicted. We also raise the question of whether the consent provided by the convicted individual and their agreement to the application of the electronic monitoring system can be considered valid and derived from free will, especially since the convicted individual is presented with two options: either the application of the monitoring system or the imposition of a custodial sentence.

One opinion holds that the convicted individual is not free in choosing electronic monitoring, as their acceptance stems from it being their only option. Therefore, it is challenging to assert

that their consent is valid. Conversely, another opinion suggests that obtaining the convicted individual's consent is one of the most important guarantees that must be provided to them. Their choice does not constitute coercion, considering they are originally sentenced and are subject to punishment. Another perspective adds that ultimately, the convicted individual is a criminal, raising the question of how we can grant them full freedom of choice, especially since their liberty is already restricted. Offering them a choice, therefore, is a form of dignity from the judiciary. Moreover, the electronic monitoring system, being an alternative punishment, implies that we are presenting them with two punitive options, thereby providing them with an additional choice. From the preceding discussion, it is apparent that both the second and third opinions converge on a single idea, which is that this system represents a guarantee and advantage for the convicted individual.

This contrasts with the first opinion, which focused on the essence of the idea of consent, leading to the conclusion that presenting the convicted individual with a choice between the electronic monitoring system and custodial punishment constitutes a form of coercion that undermines their consent. We agree with the framing of this view regarding the idea of consent; however, we must prioritize interests and consider what is beneficial for the offender, especially since we have demonstrated the advantages of this system and shown its capability to achieve the purposes of punishment. Ultimately, we are confronted with two penalties from which the offender cannot escape. We must also highlight an important guarantee stipulated by the legislator in Article 387 of the Federal Criminal Procedure Law concerning the necessity of preserving the physical integrity of the convicted individual, requiring periodic medical examinations to ensure the feasibility of applying this system. Additionally, Article 403 of the same law mandates the immediate cessation of the system's application upon any health detriment to the convicted individual.

3.2.2. Electronic Monitoring and the Principle of Equality

Article 25 of the Constitution of the United Arab Emirates states: "All individuals are equal before the law..." This indicates that the principle of equality is a fundamental constitutional principle, prompting us to question the extent to which the electronic monitoring system aligns with this principle.

3.2.2.1. Understanding the Concept of Equality in Relation to the Electronic Monitoring System

The concept of equality assumes that everyone is treated equally and afforded the same rights. However, according to the first paragraph of Article 397 of the Criminal Procedure Law, which states: "The court may, when sentencing to imprisonment for a period not exceeding two years, order that the penalty be implemented under an electronic monitoring system if it believes, based on the circumstances of the convicted person or their age, that they are unlikely to commit a new offense, and that they have a stable and known residence in the country, or if it has established that they engage in stable professional activity, even temporarily, or pursue educational or recognized vocational training, or if they are the sole provider for their family, or any other circumstances

deemed appropriate by the court," it becomes evident that the electronic monitoring system is not applied to all convicts. Instead, its application is restricted to those whom the court deems suitable based on its discretion. This raises a debate among scholars about whether the electronic monitoring system upholds the principle of equality, as will be discussed further.

3.2.2.2. Arguments Against the Electronic Monitoring System Upholding Equality

One perspective argues that the electronic monitoring system violates the principle of equality because it discriminates between individuals with stable residences and those without, as well as between individuals capable of working and those who are not. This suggests that the system applies to one group while excluding another, despite all convicted individuals having committed the same crime. Thus, it becomes evident that the monitoring system does not align with the principle of equality.

3.2.2.3. Counterarguments

I. Equality and Legal Status

The principle of equality presupposes similarity in the legal statuses of all individuals, necessitating differentiation between individuals with differing legal statuses. The basis for equality is only applicable to similar legal statuses; otherwise, it constitutes a breach of both justice and the principle of equality. The same applies to the electronic monitoring system, where the legislator established criteria that are general and abstract. Anyone who meets these criteria is subject to the system, while those who do not are prevented from its application due to their circumstances. Treating individuals who meet the criteria the same as those who do not would constitute a violation of the principle of equality. We concur with this perspective, as equating dissimilar individuals undermines the value of justice. Equal treatment necessitates equal circumstances and legal statuses, as well as the similarity in meeting established criteria. If this were not the case, the criteria would hold no value, as they were established to impose specific and precise controls for any system. The criteria set by the legislator for applying the electronic monitoring system were designed for a specific purpose.

II. Discretionary Authority of the Court

The decision to apply electronic monitoring rests with the court's discretionary authority. This implies that the court may choose not to implement the monitoring system even if the criteria are met. This situation does not relate to a right or a privilege but rather to a system that leaves its assessment to the competent authority, in accordance with public interest.

III. Alternative Penalties

The electronic monitoring system as an alternative punishment does not represent the only alternative to custodial sentences. Many other alternatives exist, such as suspended sentences or community service. Therefore, if the competent authority determines that one system cannot rehabilitate the convict, it

has the option to apply another system or alternative.

This reflects the role of individualized sentencing in penal treatment. Here, we are not discussing blind equality without considering consequences; rather, we are dealing with innovative systems that have specific rehabilitation and reform goals. This necessitates granting the court discretionary authority to determine the most suitable system for each individual case.

IV. Diversity of Sentences

The principle of equality does not imply the application of the same penalty for the same act. According to the principle of individualized sentencing, the judge has the discretion to select penalties that correspond to the severity of the act and the surrounding circumstances, and the same applies to alternative penalties. Overall, while the electronic monitoring system does present challenges in terms of equality, the arguments in favor of its application suggest that its structure and discretionary implementation serve to maintain fairness in treatment while addressing individual circumstances. The emphasis on rehabilitation and reform reflects a modern approach to justice that considers the unique conditions of each case, which can ultimately support the principle of equality in a more nuanced manner.

3.2.2.4. Electronic Monitoring and Recidivism

The second paragraph of Article 397 of the Federal Criminal Procedure Law states: "The electronic monitoring system provided for in this section shall not be applied to repeat offenders." This prompts us to question the validity of the legislator's decision to exclude recidivists from the scope of electronic monitoring, especially since we are discussing the rehabilitation of offenders. Shouldn't recidivists be prioritized for the application of this system as an alternative to imprisonment, considering that the original penalty imprisonment failed to rehabilitate them? Furthermore, could their initial punishment and exposure to seasoned criminals in correctional facilities have contributed to their return to crime? Particularly since, as we noted in the first section, societal views on punishment have shifted towards rehabilitation rather than retribution.

3.2.2.5. Arguments for Considering Recidivists in Electronic Monitoring

One perspective suggests that the circumstances of a recidivist should be taken into account when they commit a second offense, as their moral responsibility is considered less than that of a first-time offender. This diminished capacity to resist criminal impulses is often attributed to the circumstances surrounding the recidivist, including their experiences within the correctional system after their first offense, any poor social treatment they received, and the negative influences they encountered upon re-entering society after serving their sentence. On the other hand, some argue that denying the principle of imposing harsher penalties on recidivists undermines the moral responsibility that comes with a conscious choice to commit a crime. This insistence on criminal behavior only holds weight if we accept that the offender possesses some degree

of free will, even if limited. There is also a view that emphasizes the importance of providing recidivists with specialized treatment that aligns with their circumstances. This could involve imposing suitable penalties or implementing targeted rehabilitation programs that aim to reform them, rather than merely focusing on punitive measures. Scholars have recognized this shift in thinking, suggesting that the purpose of punishment should be more therapeutic and reformative rather than solely punitive.

3.2.2.6. Our Position

We align with the notion of treating recidivists with special consideration by applying targeted rehabilitation programs or specific penal measures. The aim of punishment should not be confined to infliction of pain; it must also encompass objectives such as rehabilitation. Additionally, the argument regarding the diminished capacity of recidivists to resist criminal behavior due to their environment is compelling, as the context they are placed in often contributes to their criminality.

Given that the electronic monitoring system is an alternative punishment characterized by its leniency, we reiterate our question regarding the appropriateness of the federal legislator's decision to exclude recidivists from its application. Legal experts, including lawyers, legal advisors, and specialists in behavioral modification, agree on the necessity of providing recidivists with the opportunity to apply for this system—especially since the initial punishment did little to deter them from returning to a life of crime.

This consensus between legal theory and behavioral science calls for a reconsideration of the federal legislator's stance on excluding recidivists from the electronic monitoring system. Given that the original penalty—imprisonment—failed to rehabilitate some individuals, and acknowledging that while prison may be effective for some, alternative punishments, including electronic monitoring, might be more suitable for others, practical realities indicate that these alternatives could be more effective. Moreover, we contend that denying recidivists the opportunity to utilize the electronic monitoring system constitutes a violation of the principle of equality. The idea that differing conditions should be applied in this context lacks justification. Recidivism should not be taken as a presumption of the offender's character, especially since, as previously discussed, returning to crime may result from the failure of imprisonment to reform them, along with the inherent drawbacks of such a punitive approach.

4. Conclusion

After concluding this research titled "The Effectiveness of Electronic Monitoring in Achieving the Goals of Punishment and Protecting Offenders and Society," we can summarize our findings as follows:

- **Changing Perspectives on Punishment**
Society's view of punishment has evolved over the years from one focused solely on deterrence to one that emphasizes rehabilitation.

- **Relative Deterrence**
Both electronic monitoring and custodial sentences achieve a form of relative deterrence. Their effects do not apply uniformly; some individuals find imprisonment to be a stronger deterrent, while others may respond better to electronic monitoring.
- **Safety and Monitoring**
The electronic monitoring system does not pose a genuine threat to society, either in terms of the safety of monitoring devices or the general deterrent effect. Its implementation is governed by strict conditions assessed by the court, ensuring that it is applied judiciously.
- **Supporting Criminal Justice**
The electronic monitoring system supports the concept of criminal justice by aiding in the restitution of harm and rehabilitating offenders. Punishing offenders by imprisoning them can have negative repercussions, potentially resulting in individuals becoming more criminally inclined upon release.
- **Balancing Interests**
The electronic monitoring system achieves a balance between fulfilling the purposes of punishment and protecting society while ensuring the rights of offenders. It includes rehabilitation programs and specific conditions set forth by the federal legislator, considering the gravity of the crime and the good behavior of the offender.
- **Rights Protection**
The electronic monitoring system does not infringe on the rights of the offender; instead, it serves as a safeguard against the negative aspects of imprisonment and ensures their rehabilitation. The federal legislator has outlined guarantees such as medical follow-up and obtaining consent from the monitored individual, along with efforts to choose non-harmful monitoring methods.
- **Exclusion of Recidivists**
The federal legislator has excluded recidivists from the application of the electronic monitoring system.
- **Government Efforts**
The UAE leadership has made significant efforts to organize the implementation of this system by issuing several decisions, such as the Cabinet decision on electronic monitoring and the implementation of conditional and electronic monitoring [1-3].

Recommendations

Based on our findings, we propose the following recommendations:

- I. **Revisiting Legislation**
We recommend that the federal legislator reconsider Article 397 of the Federal Criminal Procedure Law to allow the application of the electronic monitoring system for recidivists. This would facilitate the rehabilitation of offenders and

enhance community safety by preventing released offenders from becoming more criminally inclined, especially since both legal and psychological perspectives support this approach.

overseeing implementation. This role would complement the judge's assessment and the follow-up responsibilities of law enforcement and prosecutors.

II. Family Consent

We recommend adding a provision requiring the consent of the offender's family, as they share the same household. While the offender is responsible for the repercussions of police visits due to their crime, the principle of personal punishment should not extend the burden to others.

III. Incorporating Behavioral Specialists

We recommend the addition of a legal provision mandating the presence of a behavioral modification specialist alongside a social worker to assess the appropriateness of applying the monitoring system, suitable rehabilitation programs, and

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