

Article

Smart Prisoners: Uses of Electronic Monitoring in Brazilian Prisons during the COVID-19 Pandemic

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Abstract

This paper discusses the electronic monitoring (EM) of indicted and convicted citizens in Brazil during the COVID-19 pandemic. We start by discussing how EM was implemented in the country and describing its close link with the technology company Spacecom. We argue that the use of EM to mitigate the impact of COVID-19 in the Brazilian prison system intensifies the continuation of an uninterrupted mechanism of social control that is sustained by systemic racism in Brazil through a growing link between the State and technology companies. Mapping the changes that EM imposes on criminal legal practices, reflecting on data access and management carried out by private companies, and analyzing the acceleration of this process during the COVID-19 pandemic in Brazil are topics addressed herein.

Introduction: Electronic Monitoring in Brazil

This article analyzes the Brazilian government's policy of using electronic monitoring (EM) of Brazilian prisoners as a strategy to prevent the spread of infection in prisons during the COVID-19 pandemic. Our overall aim is to interrogate the impact of this policy as part of a broader strategy of state control and to think about how this use of EM technology has changed common practices in the criminal justice system. Prison practices, the access and management of the device by private companies, and the strengthening of monitoring, with special attention to the health crisis of COVID-19, are problematized. Our research methodology is based on bibliographical research of reports, data, and official laws released by the country's public bodies and by Spacecom, the company that manages the ankle bracelets. We argue that this technology presents a continuous mechanism of social control that is sustained by systemic racism in Brazil and that updates the forms through which the containment of undesirables is operationalized.

Brazil is composed of twenty-six states and a federal district with statehood status; the use of electronic ankle bracelets takes place in all of them. Brazilian EM uses a type of bracelet attached with a buckle to the individual's leg, with the technology emitting continuous Global Positioning System (GPS) location signals. These signals are monitored by a central office in each of the state governments. In the past six years,

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roughly BRL 85 million¹ have been transferred to Brazilian states to implement EM programs (Brazil 2020). The states outsource the operational management of the data to surveillance technology companies (Brazil 2020).

Brazil first used EM in 2010 (Law No. 12.258) to track convicted criminals, but in May 2011, its use was extended to include precautionary measures other than imprisonment (Law No. 12.403). Under the 2011 law, “prosecuted people awaiting trial could also be subjected to remote tracking. This way, the use of monitoring equipment was made available to the magistrature as a way to supervise the conditions for serving sentences in the semi-open regime and home detention, or to control precautionary measures determined during the criminal instruction phase” (Campello 2019: 82).²

Brazilian law requires that people being monitored are obliged to wear the ankle bracelet at all times and to keep its battery charged. When the battery reaches 30%, it must be removed to charge; if not, when it reaches the 15% limit, an alert signal is sent to the state monitoring center, which should send a law enforcement team³ to the location. Depending on the surveillance regime type, some EM wearers are required to stay in or avoid pre-determined geographical locations, and most must return home at pre-established times. EM wearers are also required to maintain their equipment; a fiber optic system identifies any damage so a monitoring services team can respond and intervene (Ministério da Justiça and Departamento Penitenciário Nacional 2018). If the EM wearer does not comply with the rules and procedures, they run the risk of going back to a closed institution to serve their time.

In 2019, according to Ministry of Justice data, there were 60,347 active devices, which represented just under 9% of the Brazilian prison population (Ministério da Justiça and Departamento Penitenciário Nacional 2019). However, with the advent of the COVID-19 pandemic, the Brazilian justice system used the devices as part of a strategy to prevent the virus from being transmitted within the Brazilian prison system. It is important to emphasize that Brazilian prisons have high rates of infection with respect to other pathogens, such as HIV/AIDS, tuberculosis, syphilis, hepatitis, and scabies. However, in the case of COVID-19, the numbers show that there was adequate control of virus transmission among the prison population without EM monitoring, which leads us to ask what actions culminated in this result.

In March 2020, the National Council of Justice (*Conselho Nacional de Justiça—CNJ*),⁴ the body that controls judicial activity, passed a resolution to provide guidance to courts and judges with respect to preventive measures to control the spread of COVID-19 within the criminal and social-educational justice systems (Conselho Nacional de Justiça 2020b). One month later, in April 2020, the CNJ issued “Technical Guidelines” that established EM as one of the measures to prevent the spread of the infection (Conselho Nacional de Justiça 2020b). Within a month, seventeen Brazilian states switched from closed prison regimes to open or semi-open prison regimes.

In May 2020, a CNJ report (Brazil 2020: 19) presented the first data on the use of EM and reported that half of Brazilian states needed more ankle bracelets. This strongly suggests that the CNJ was pursuing a policy that relied on EM to prevent the novel coronavirus from spreading throughout Brazil’s prison system. Since April 2020, the use of EM has escalated to the level that, according to the coordinator of the Electronic Monitoring Central (*Central de Monitoramento Eletrônico—CME*) of the Institute of Penitentiary

¹ BRL 84,754,441.32 is equivalent to \$15,280,979.98 in USD (as calculated on August 20, 2020).

² In semi-open regime sentences, the person has the right to work and take courses outside the prison during the day but must return to the prison at night.

³ The law establishes the presence of a multidisciplinary team composed of a psychologist, social worker, and police officers. However, in practice, warnings have been answered only by the police.

⁴ “The National Council of Justice (CNJ) is a public institution that aims to improve the work of the Brazilian judiciary system, especially with regard to administrative and procedural control and transparency” (Wikipedia 2021a). Its mission is to develop legal policies that promote the effectiveness and unity of the Judiciary Branch, guided by the values of social justice and peace (Conselho Nacional de Justiça 2020a).

Administration of Amapá⁵ (Iapen), control of the COVID-19 pandemic was achieved within the prison system with the use of this technology (Moraes 2021).

In this article, we examine these resolutions and review the data on transmission among incarcerated people and state/civil servants that suggests that EM helped to stop the spread of infection. However, since not all angles of EM are shiny, we also examine the ethical and privacy debates sparked by its use. In particular, we analyze the close surveillance link established between the State and private companies over this time period. We start by comparing contemporary electronic monitoring to the slavery period in Brazil and draw out similarities between the two time periods. This enables us to analyze ankle bracelets from a theoretical point of view; we relate EM to Foucault's (1996) concept of *dispositif* and demonstrate how the subjectivity of the monitored person is modeled based on the coexistence of the prisoner and the prison officer. We then discuss how device management takes place in Brazil by examining the performance of the company Spacecom. This points to the need for ethical supervision when it comes to sensitive data obtained through EM. Finally, we explore the use of ankle bracelets within the context of the COVID-19 pandemic and identify the normative acts that made it possible for incarcerated people in the risk group to migrate to the EM model.

Theorizing EM

The Decree of December 14, 1830, in Bahia,⁶ established control measures for African slaves and freed black people. They could only leave the cities, towns, villages, or farms where they resided if they carried an identity card dated and signed by their master, administrator, or slavedriver, indicating the place to which they were going and the duration of this authorization. According to the Decree, slaves who went outside the area of circulation allowed by the identity card were to be immediately arrested and sent to their master for due punishment. Black people who had to leave the place where they lived to conduct business were also required to obtain a passport of authorization from the criminal or peace judge, wherein the valid period of such documents had to be stipulated, as the individual would be subject to arrest in cases of noncompliance (Batista 2003: 26).

The control of slave traffic in the late Brazilian Empire concerns the first great technological monitoring program embedded in the fantasy of complete social control. And this fear did not subside with abolition but rather spread to new horizons. That is why Batista (2003: 32) points out that the military occupation of Rio's *favelas* today stems from a legacy that recalls that fear of subordinate classes occupying public spaces.

When governing through fear, state governments have the ability to use the most powerful weapons of social control, linking discourses about chaos to political structures of control and organization. The fear of the revolutionary unrest of those (un)classified as dangerous covers a very wide spectrum in the lower strata of society. Batista (2003: 21) was dedicated to thinking about the imaginary of an uncontrolled revolution conducted by delinquents, idlers, and rioters, manifested in the *Quilombos*⁷ of the empire. Be it in the War

⁵ “Amapá (/ama'pa/) is a state located in the northern region of Brazil. It is the second least populous state and the eighteenth largest by area. Located in the far northern part of the country, Amapá is bordered clockwise by French Guiana to the north, the Atlantic Ocean to the east, the state of Pará to the south and west, and Suriname to the northwest” (Wikipedia 2021b).

⁶ “Bahia (/bə'hi:ə/; “bay” in Portuguese) is one of the twenty-six states of Brazil, and is in the northeast of the country, on the Atlantic coast. It is the fourth largest Brazilian state by population (after São Paulo, Minas Gerais, and Rio de Janeiro) and the fifth largest by area” (Wikipedia 2021c).

⁷ *Quilombos* were communities formed by slaves who fled the farms. These places became centers of resistance for black slaves who escaped forced labor in Brazil.

of Canudos,⁸ in the Republic period, or in the fear of any urban dragnet today, terror has the power to awaken this political force by monopolizing the legitimate exercise of symbolic violence.

Thus, new forms of domestic constraint and thousands of individuals monitored by the state reinvoke a public debate about the structural roots of conflict in society (Mills 1969). We need to think about what institutions protect this state of affairs. How do political decisions support the spread of this model of mass control? How many industries and workers depend on it? Who are most impacted by this deprivation? What political-electoral programs subsidize scientific research projects aimed at the evolution of the urban warfare drama? This is the broader context in which we must place the spread of the monitoring policy of the Brazilian penal system. At first, it can be said that the efficiency of the surveillance model of subordinate classes resides precisely in the promotion of generalized fear. In this way, it “converts punishment into a consumer good” (Campello 2019a: 156), and using big data, it forms a colossal mass of information worthy of attention.

In this context, the rise in the use of EM devices can be seen as part of the domestication of the prison. In other words, domestic space has been desecrated by the State to become a prison, and the constant presence of the State comes to reside in people’s bodies (Campello 2019a). Arguably, the digital expansion of the world has reached a level of control and violence that is not yet understood, which is why it is crucial to establish a global consensus on the devices and data collected and used in EM models. Exemplified by penal institutions such as the Bastille, the most emblematic prison ever overthrown by a revolution, the use of EM suggests that forms of physical control are in the process of collapse. We are entering an era of order and control through the use of technological devices without any established parameters and measures for this shift.

In one sense, EM is considered to be a lighter, softer, and more invisible surveillance mechanism. Interestingly, just as disciplinary practices were considered lighter than the express use of sovereign power in the past, today it is the panoptic institutions that are considered too closed, too pre-shaped, and too enclosing. According to Lyon (2018), one of the main characteristics of a surveillance culture is people’s active participation and acquiescence concerning the regulation of their own surveillance. In this sense, the electronic ankle bracelet can be considered evidence of the smarting process of imprisonment, since it is light enough to carry on one leg and so soft that the monitored person can be their own prison officer. However, it is not surprising that something so light can mold the subjectivities of the people monitored from the condition of “prison officer of oneself.” After all, the power of this surveillance mode lies in the cohabitation of the prisoner and the prison officer in the figure of the monitored person. As Campello (2019b: 91) observes, “Instead of inserting the body of the individual in a control device, the control device is installed in the body of the individual. We move from the body in prison to prison in the body.”

Thus, one must consider that objects also play their role. In the discourses of design, production, implementation, and use of EM, there are social, political, economic, linguistic, and technical issues embedded in deeper layers. Lazzarato (2014: 30) reminds us that, to Foucault, “Machines, objects (and signs), act in precisely the same way as an ‘action upon an action’.” Therefore, our analysis should not be restricted to the human-human relationship. As Foucault (1996: 244) conceptualizes, the word *dispositif* is a heterogeneous set “of discourses, institutions, architectural organizations, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral, and philanthropic propositions.” Therefore, *dispositif* refers to the rearrangements established between techniques, procedures, spatial and architectural arrangements, laws, discourses, technical objects, and all that is said and unsaid. *Dispositif* is the network created between these elements. Artifacts produced for other purposes can be incorporated into the heterogeneity of the *dispositif*. This happens as a result of functionalities not initially foreseen, but that somehow can fill empty spaces in the different surveillance modes. This is the reason why the electronic ankle bracelet is seen as a part that was incorporated into a *dispositif*: because it is assumed that an object

⁸ The War of Canudos is considered one of the main conflicts that mark the period between the fall of the monarchy and the installation of the republican regime in Brazil.

capable of guiding behaviors and gestures, both models subjectivities and cannot be considered either politically or socially neutral.

The Privatization of Electronic Ankle Bracelet Management in Brazil

Brazil has the third largest prison population in the world and approximately 800,000 people experience some restriction to their freedom. Those who promote the use of EM during the trial process or after sentencing claim that ankle bracelet usage could be a way to reduce the prison population in the country. The issue is that this is an example of a technological solutionism discourse (Morozov 2013), in which the only way to solve any problem of a social, economic, or political nature is through the advancement or creation of more technology. For Morozov (2013: 6), “solutionism presumes rather than investigates the problems that it is trying to solve, reaching for the answer before the questions have been fully asked. How problems are composed matters every bit as much as how problems are resolved.” In this case, the discourse of solutionism could not be more reductive, since the ankle bracelet, or any other device, will not be able to solve the systemic social issues that plague Brazilian prisons.

In fact, in Brazil, an increase in electronic monitoring coexists with mass incarceration. Campello (2017: 149) states that the “evolution of incarceration rates in the country, over the past few years, indicate that the measure has not shown any impact in the sense of limiting the growth of the incarcerated population.” The author further adds that punishment is a profitable business and that there is an ongoing industry of punishment, whose raw material is suffering as a result of this form of guardianship. Within this industry, out-of-prison control technologies proliferate, expanding the physical limits of the prison building without giving up the features of confinement. The design of devices and the private management of ankle bracelets must be analyzed with this in mind. EM in Brazil is another exemplar of the public and private partnerships in surveillance operations that Lyon (2018) identified when he argued that there is a post-Orwellian alliance between governments and companies that ensures that current surveillance remains very dependent on commercial entities.

In the case of Brazil, ankle bracelet management is carried out by the company Spacecom. The Brazilian company supplies the equipment and manages the data system for sixteen of Brazil’s twenty-seven federal states, which represents 59.25% of the Brazilian market. On its website, Spacecom (2020: 1) presents itself as “the largest offender tracking company in Latin America,” as it claims to have monitored over 300,000 different people serving sentences, with an average of 48,000 monitored per day.

According to Spacecom’s (2020) website, the ankle bracelet’s data management system relies on GPS satellite communication with cellular towers. The ankle bracelet has two SIM cards from different operators that connect to the internet and send the geolocation data to a data-tracking center. Since the end of 2020, the telephone operator TIM has provided exclusive coverage of the signal. This sets a precedent for yet another private company to have access to the ankle bracelet data and to profit from this criminalization and surveillance process.

Again according to its website, Spacecom has access to the following types of ankle bracelet data: the devices’ stock, which controls access and authorizations per user profile; user actions tracking; registers of the sentenced people with the possibility of grouping them by profile; individual and collective areas of geographic inclusion and exclusion; profiles by region and period of monitoring; visuals of the position of sentenced people through maps and graphics and analytical reports; customized reports based on the data collected; and the ability to integrate these data with other government databases (Conselho Nacional de Justiça 2020a).

This easy access to data has been cause for concern in the justice system itself. According to Resolution No. 5/2017 of the National Council on Criminal and Penitentiary Policy (Conselho Nacional de Política Criminal e Penitenciária 2017: 103):

There is, without a doubt, potential harm in the publicization of such databases, since they do not deal with indeterminate or anonymous people, as is the case with opinion polls and census databases. The data generated by electronic monitoring, by itself, is characterized as sensitive personal data. It is sensitive personal data, not open data, and, due to the potential risks they carry, not just anyone can freely use, reuse, and redistribute this data.

Thus, the enormous access capacity that the company has, as well as its expertise in creating profiles with the data, reinforces how necessary it is to be aware of the technological capabilities of ankle bracelets so that information is not sold or passed on to third parties.

Fighting COVID-19 in Brazilian Prisons: Resolutions Calling for the Increased Use of Electronic Monitoring

As noted in the introduction, the Brazilian judiciary was responsible for identifying strategies to contain the spread of the novel coronavirus throughout the prison system. Managers of the federal states shared the responsibility of executing said strategies. Thus, the first measure adopted was the approval of Resolution No. 62/2020, on March 17, 2020, by the CNJ (Conselho Nacional de Justiça 2020a, 2020c). The aim was to advise courts and judges on the adoption of measures to prevent the spread of COVID-19 in the criminal and social-educational justice systems.

When the CNJ later released technical guidelines for the electronic monitoring of people within the scope of the adoption of measures to prevent the spread of the infection, it called upon judges to use electronic monitoring devices in a rational and qualified manner, admitting that the demand of the State was greater than the supply of equipment by the market (Conselho Nacional de Justiça 2020b).

In May 2020, the CNJ reported on the actions taken by the Courts of Justice in order to monitor the implementation of the measures suggested in Recommendation No. 62/2020 (Conselho Nacional de Justiça 2020c). This report revealed the existence of a deficit of more than 7,000 electronic ankle bracelets in Brazil, just one month after the measures to contain the COVID-19 pandemic were adopted.

The CNJ report (Brazil 2020: 19) affirms that there is a pent-up demand for more ankle bracelets in 50% of Brazilian states. It reports that, as of March 17, 2020, 5,904 new trackers had been activated in the prison system, 190 for precautionary measures. It was also reported that 7,692 devices would be needed to meet the demand of the criminal justice system. This suggests that, if Brazilian states were equipped with enough devices to comply with the guidelines, the number of people tracked in the national territory would have increased by 13,596 between March and April of 2020 alone.

The report also states (Ministério da Justiça and Departamento Penitenciário Nacional 2020: 19) that no tracking unit suspended services during the ongoing pandemic, which means that the operation and control centers that supervise people being monitored have continued working normally since the beginning of the outbreak. In this way, electronic monitoring is being positioned to become a nonstop essential service, which operates continuously to neutralize the simultaneous dangers the novel coronavirus and convicted deviants are said to pose.

It is worth clarifying that, according to the report, in the first month of the pandemic, ankle bracelets were installed in seventeen Brazilian states; other states moved inmates out of closed prisons into other alternatives but without electronic monitoring. In the same period, the report shows that thirteen states, or 50% of the total number of states, made changes to their closed regime by altering closed regime sentences to home detention with electronic monitoring (Ministério da Justiça and Departamento Penitenciário Nacional 2020: 06). The same goes for the semi-open regime in the cases of migration to home detention; in thirteen states, transitions occurred with monitoring; and in twelve regions, transitions occurred without

monitoring (Ministério da Justiça and Departamento Penitenciário Nacional 2020: 07). In four states, home detention was mentioned to be combined with monitoring (Ministério da Justiça and Departamento Penitenciário Nacional 2020: 13).

The data proves that during the first month of the COVID-19 pandemic in Brazil, EM was intensified, both due to the entry of new individuals taken into custody and the change of prison sentences for those serving their sentence in closed, semi-open, and open regimes to variations with the use of the electronic ankle bracelets. In the following section, we analyze some of the results of these decisions.

Monitored Quarantine: Made in Brazil

In Brazil, the COVID-19 pandemic and the associated feelings of fear, insecurity, negativity, helplessness, and finitude strengthened the pretense for increasing adherence to the surveillance culture in several areas of social interaction. This happened due to the serious health crisis,⁹ which infected more than 12.7 million people and resulted in more than 325,000 deaths.¹⁰ We argue that the collapse of both the public and private health systems contributed to intensifying the implicit social acceptance of EM strategies by the State and private enterprises. This took place mainly with the emergency measures, previously mentioned, adopted by the judicial system.

During the health crisis, increased surveillance happened in several ways, including the use of EM and geolocation control of cellphone signals to measure social isolation rates. It also occurred through the intensification of individual surveillance through diagnostic tests and temperature measurement required to access public and private places. These measures were put in place through special legislation approved by municipalities and states.

The use of EM has been increasingly encouraged and adhered to by the criminal justice system, both in the enforcement of sentences resulting from criminal convictions and in the investigation and pre-trial phases. Saldanha (2018) suggests that a security logic that is anchored in the fear of crime and a standardized conception of dangerousness has led to the indiscriminate use of ankle bracelets. Thus, the use of EM is part of a securitization process that was already underway, although it became much more prevalent during the COVID-19 pandemic.

Although the total data for 2020 has not yet been released, we can infer that the number of monitored people increased with the pandemic. In the case of Amapá State (AP), for example, the number rose from 150 devices in 2019 to 615 in 2020, meaning there were 4.1 times more active electronic ankle bracelets one year after the CNR Guidelines concerning the spread of the novel coronavirus were issued (See Table 1).

Register	2019	2020
Total number of people monitored (during the year)	915	900
Active devices	150	615
Deaths	1	7

Table 1: EM in Amapá State, comparison 2019–2020. Source: CME/lapen-AP.

⁹ On March 17, 2021, twenty-six of the twenty-seven Brazilian states were classified as Critical Alert Regions in relation to the ICU bed occupation by COVID-19 patients in the Brazilian National Health System (SUS).

¹⁰ Available at <https://covid.saude.gov.br/> [accessed on April 1, 2021].

Figure 1 shows the data of COVID-19 infection in the prison system. When compared to data from April 2021 of the total population (more than 12.7 million cases), the measures, including the rise in the use of EM, contributed effectively to preventing the spread of the virus within Brazilian prisons.

COVID-19 IN THE BRAZILIAN PRISON SYSTEM

(UPDATED MARCH 8, 21)

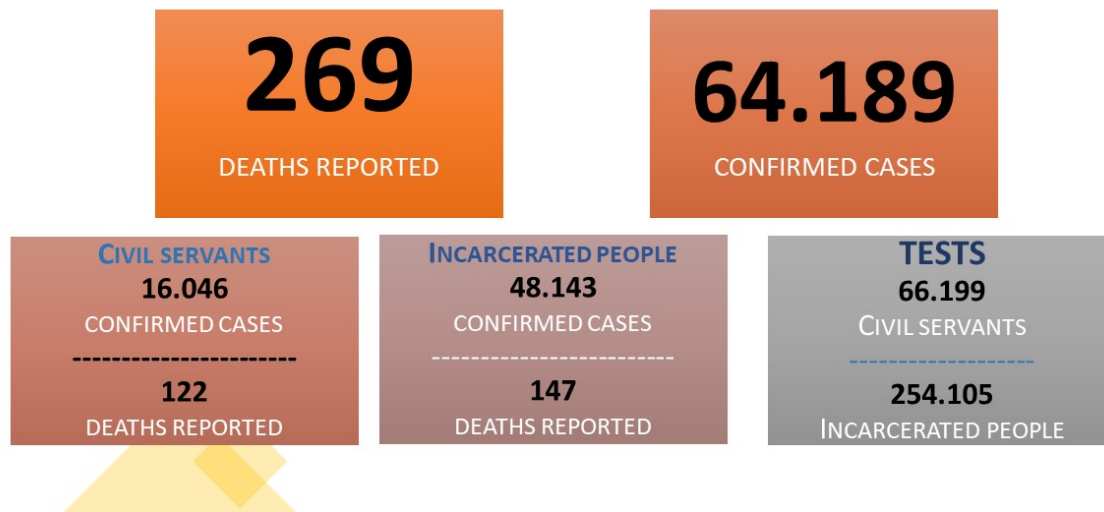


Figure 1. CNJ Bulletin of COVID-19 Monitoring—registration of cases and deaths (Ministério da Justiça 2021).

In one year of the ongoing pandemic, from March 2020 to March 2021, there were 64,189 confirmed COVID-19 cases among inmates, with 269 deaths, which equals a mortality rate of 0.41%. These are meaningful numbers when compared to the 12.7 million confirmed cases in the country and more than 325,000 deaths, where the mortality rate was 2.559%. These data make it clear that prison deaths from COVID-19 correspond to a small portion of the total rate of deaths in the country. Although it also leads us to a paradoxical inference: the use of electronic ankle bracelets was one of the strategies that prevented a greater spread of COVID-19 within the prison system. Accordingly, the measures proposed in Recommendation No. 62/2020¹¹ were undeniably successful. From a criminological perspective, it is still premature to draw final conclusions about the context of the pandemic. Still, from the detailed examination of the data analyzed, EM, along with other biosecurity measures, proved to be an adequate tool to prevent the spread of COVID-19 among incarcerated people.

This is in keeping with the CNJ technical guidelines that suggested, if used within the normative parameters, EM “can be an important tool in the context of the pandemic in relation to the novel coronavirus” (Conselho Nacional de Justiça 2020a). Given the legitimacy coming from the largest body of the Brazilian judicial management and the low COVID-19 death rate in the prison system, we project that public managers will be more likely to turn to EM in the future, which will encourage even more financial investment in the technology. This will also magnify the social imaginary regarding the conditions of the prison system,

¹¹ For example, masks (cloth masks, surgical masks, N95 masks), disposable lab coats, goggles, gallons of liquid soap and face shields, hand sanitizer, and infrared thermometers were distributed to internal employees and civil servants. Testing was conducted both inside and outside prison.

furthering a persistent claim that the unhealthy reality of Brazilian prisons can be alleviated through the use of EM.

Another factor in favor of EM is that the execution of the sentence in a closed regime is recognized by the Brazilian Superior Court of Justice as an “unconstitutional state of affairs” (Superior Tribunal Federal 2015). In the face of repeated “occurrences of widespread violation of the fundamental rights of inmates as to dignity, physical health, and psychological integrity, the custodial sentences applied in prisons would become cruel and inhumane punishments” (Supremo Tribunal Federal 2015: 1). Hence, for most jurists, electronic monitoring is seen as a soft, light, and more affordable measure, which frees subjects from the chaotic closed regime and contributes to mass de-incarceration.

While EM is typically seen as a more economically feasible solution, the study conducted by the Ministry of Justice (Ministério da Justiça 2017: 68) admitted that:

Monitoring has not contributed to reducing the costs of the prison system, nor has it promoted forms of social integration and de-incarceration. An example of this is the use of monitoring in semi-open regimes, as an additional control tool during “temporary leaves”, or even to allow work or study. In this situation, the State invests resources to keep those imprisoned and equally monitored, which turns into a greater use of public resources, deficient budget planning, and excessive penal control.

This suggests that there is an imagistic and idealized construction of EM which is far removed from the reality of its financial impacts. Moreover, these discourses do not consider the feelings experienced by its users, since they face the stigma of visibly carrying a sign of punishment. This stigma permeates the fear of going back to the closed system, the difficulty of getting a job, and the realities of being watched 24/7; in short, EM perpetuates the feeling of having the state continuously present in one’s body, in a prison that accompanies the individual at all times (Campello 2019a).

Alternatively, it can also be noted that, for some of the people being tracked, these feelings corroborate the imaginary related to EM. The application of the electronic monitoring measure is often seen as a “benefit granted by the judge in order not to be imprisoned” (Maciel 2014: 110). The ankle bracelet is seen as a “token of kindness,” a sublime gesture, a charity, which frees subjects from the hardships of imprisonment. However, what is taking place is an appropriation of space, beyond the walls of prison, by the punitive power of the State. According to Campello (2017: 156), “the punitive machine converts society into a vast and unlimited penal colony.” Also, according to Valois (2011), a criminal execution judge and academic, EM has stretched the prison’s arms, with the ankle bracelet being a modern chain. In his projection, the ankle bracelet will not change the conditions of social disadvantage that inmates suffer in Brazil: “If prisoners and their family are hungry, have no medical care, no education, and no decent housing, like many Brazilians, the situation will not change, only an expensive electronic device will be added to their lives of misery: a greater disproportionality may happen” (Valois 2011: 1).

A few years before electronic monitoring entered the Brazilian legislative system, Karam (2007) projected that the expansion of EM in the criminal justice system would be a logical consequence of the secundarization of evidence represented by the surveillance model. Also, according to Karam (2007: 01): “Electronic monitoring is not only an illegitimate intervention in the body of a convicted individual, an unauthorized invasion of their privacy, a transformation of their once secure home into a quasi-prison, into a branch of what was the total institution par excellence.”

EM accordingly represents the illusion of decarceration, the supposed representation of a humanized sentence that allows the selectivity of justice to coexist with a clear margin of freedom for those people being monitored. It is also tied to the neoliberal imaginary: the comparison between its costs and the current expenses of a prisoner in a closed regime results in a greater engagement and legitimization of state agents

concerning the ankle bracelet. This obfuscates the ontological issues that need to be unpacked in order to evaluate a public policy of this type. As Karam (2007: 01) continues:

Not even the evident display of the perspective of total control, not even the illegitimate intervention in the bodies of monitored individuals, not even the unauthorized loss of privacy, prevent the misleading publicity that sustains the penal system from presenting electronic monitoring as an advance towards the “humanization of punishment,” nor preventing the so-called reformers of the penal system—but always attached to it—from hastily applauding it as the “good” alternative to the penalty of deprivation of liberty. Those dominated by misleading publicity, those frightened by the dangers of the “risk society,” those anxious for security/safety at any price, and, with them, the apparently well-intentioned reformers of the penal system, do not perceive the contours of the new social discipline, do not perceive the gloomy prospects of control in the digital age, do not perceive the clear expansionist tendency of punitive power in our “post-modern” world. They do not realize that the “postmodern” diversification of control mechanisms does not prevent the suffering of imprisonment. On the contrary, it only expands punitive power in its parallel path towards the rise in custodial sentences.

It should be noted that stigmatization and interference with fundamental concepts like time and space are one of the main effects of EM. Monitoring imposes curfews and sets distances, places, and geographic areas of inclusion and exclusion. Undoubtedly, the people living and working with those who are monitored are also impacted in their routines; thus, monitoring goes beyond impacting the convicted person or defendant. This is particularly problematic given how, as the Ministry of Justice (Ministério da Justiça 2017: 31) recognized in 2017, stigma can be taken as a downward social inequality factor, as it is “highly degrading, considering that we live in a society mostly guided by values and practices that morally condemn and repress any symbol or sign linked to imprisonment.”

Conclusions

Surveillance processes in Brazil date back to slavery, and it is no coincidence that the country has the third largest prison population in the world, made up mostly of black and brown people (Guerreiro 2020). Changes in types of power are typically followed by changes in types of surveillance. Therefore, the control of the prison monitoring policy follows the current smartification of various social processes and is directly reflected in the use of EM as a mechanism of punishment.

Given the data analyzed herein, mostly from official reports of the Brazilian Penitentiary Department and the Ministry of Justice (Ministério da Justiça 2017, Conselho Nacional de Política Criminal e Penitenciária 2017, Ministério da Justiça and Departamento Penitenciário Nacional 2018, Ministério da Justiça and Departamento Penitenciário Nacional 2019, Ministério da Justiça and Departamento Penitenciário Nacional 2020), we can state that, over the past ten years, there has been a boom in the use of electronic monitoring in Brazil and that the method implemented by the Brazilian State was to outsource the supply and management of the devices to private companies. As of 2021, Spacecom has contracts with sixteen of the twenty-seven Brazilian states and advertises itself as the largest offender monitoring company in Latin America.

Another important finding is the acceleration in the use of electronic ankle bracelets during the COVID-19 pandemic. The data show that, in the first month of the pandemic, electronic monitoring rose due to both the admission of new people into custody and changes from closed, semi-open, and open regimes to alternative sentence formats twinned with EM.

This article has analyzed how electronic monitoring has been deployed in Brazil and how this process was accelerated because of the COVID-19 pandemic. It concludes that the moment of deployment of the

electronic ankle bracelet is a rite of passage to a “virtual prison,” a process that has visible ethical issues with regards to privacy and surveillance that need to be further discussed.

However, paradoxically, we must also acknowledge that the widespread use of this method in the prison system during the pandemic may have been one of the factors responsible for the success of the Brazilian prison system in preventing the spread of COVID-19 within prisons, where inmate deaths represent 0.41% of the total deaths registered in the country. Undeniably, this is a low percentage if compared to the more than 325,000 deaths in the country at the time this article was completed. There are currently no available data on the number of people with EM who died from COVID-19. So far, there is only partial data from Amapá State, which reported seven deaths.

As for the health issue, in addition to the increased use of EM, prison cell isolation methods for suspected and confirmed cases of COVID-19 have also been adopted, as have changes limiting work routines, family visits, and religious attendance. While the data allow us to infer that these measures were successful in preventing the spread of the novel coronavirus in the prison system, it is equally important to recognize that the physical prison gained a digital version of itself, one made available by the punishment industry (Campello 2019b).

Given the complexity involved in the insertion of technological devices into prison systems, policy must be guided by strong ethical values. In a participatory and democratic manner, EM protocols must follow the management model of the monitoring policy in order to mitigate the severe impacts of surveillance, both for the people monitored and for society as a whole. From an ethical point of view, establishing a global consensus on criminal digital control is imperative. This control must seek to ensure greater social participation and accountability to avoid further exclusion of minorities, who are, in this case, too often targeted unfairly by algorithms. Faced with the inevitability of data, it is now up to us to understand who the digital prisoners are and cross-reference their control data with their data regarding education, family, gender, race, and so on to allow for the creation of new public policies. What we know is that the methods of digital penal control must, unavoidably, aim to preserve and further develop human rights. The creation of new technologies must serve to sustain a community life with less conflict and more peace and not to accentuate the divisive and stigmatizing conditions that already exist.

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