

Electronic bracelet as an alternative to conventional punishment

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Abstract

When talking about an electronic bracelet, we talk about reserving freedom in a digital way. Differ in substance and nature, from the seizure of freedom dealt with by criminal legislation as a whole, including Jordanian legislation. Which in our time have become conventional punishments that do not match the requirements of the modern era of reform and rehabilitation, the countries are burdened with burdensome expenses and expenses to reform the criminals.

Despite the sharp criticisms of some Western jurists of electronic censorship, including the electronic bracelet, but it has seen a recent development. Its supporters see a special attraction, which can be used at all stages of criminal trials, from pre-trial to trial and other stages of the reform process.

Introduction

Freedom-based penalties are designed to reduce the chances of committing crimes in society, while at the same time preventing the return of perpetrators to new crimes, in addition to their social role of rehabilitating and reintegrating criminals in their environment and environment. Recent jurisprudential and scientific studies have shown that freedom-negative sanctions may not be the most effective and efficient to achieve their desired goals, because they are based on exclusion and exclusion from their surroundings and their natural social environment, which may cause them to be re-adapted within their communities. These sanctions may sometimes be counterproductive, instead of reforming the perpetrators of minor crimes, making them more criminal and violent. For this reason, many jurists see imprisonment as an extremely costly means of creating more dangerous and criminal persons. This led to penal legislation in the world as a whole to work on alternative measures for freedom-related sanctions, including electronic censorship.

Electronic surveillance by the electronic bracelet, one of the most important and the latest and most modern alternatives to detention, raises the controversy of Western scholars in our time. Because it has become part of the punitive policies of many Western countries, including France, Britain, Belgium and the United States of America. Their importance derives from their digital nature, because they differ in their content and content and apply them to traditional alternatives to detention on the one hand, and because they have the ability to reform lesser criminals and reduce the number of prisoners on the other. Although electronic censorship has become an urgent requirement in our age of electronic revolution, it is still unknown to many in our Arab societies.

Problematic search:

Despite the censorship received by e-mail in the Western countries as an alternative to the sanctions against freedom, it did not find the least attention by the legislation of the Arab countries, including Jordanian legislation, and this study came to highlight this technique as an alternative to reserve freedom Traditional. The study tried to show the historical development and try to answer a number of questions that arise in the conscience, which was the reason to put this issue on the table, namely:

- 1) What is electronic dialogue and what is its mechanism of action? What are the stages of its historical development?
- 2) What are the restrictions of monitoring work through the electronic bracelet as an alternative to the penalties for freedom?
- 3) What are the justifications for working in the electronic dialogue and what is its role in the development of punitive policies?

Study Approach:

This study is based on the analytical presentation of the experiences of Western countries and on the ideas and opinions presented. With the experience of some legislation governing electronic surveillance, in particular electronic surveillance provisions in the French Code of Criminal Procedure; and in view of the Jordanian Code of Criminal Procedure.

Research Plan:

Through this research, we will first determine the nature of the electronic bracelet as a means of electronic control, and the historical development that accompanied it, and what I find on this procedure of developments practiced in Western and European countries, especially in the French legislation, and then we will overcome the desired goal of applying Electronic control in our society, and the extent to which this modern model of censorship is compatible with our penal policy.

Based on the above, we will discuss the subject according to the following mechanism:

The first topic: the concept of electronic observation and the historical development of this modern technology.

The first requirement: what is the surveillance by the electronic bracelet and the cases in which it is used.

The second requirement: the historical development of the electronic surveillance technology by electronic bracelet.

The second topic: the extent to which electronic censorship is compatible with our penal policy.

The first requirement: restrictions in the case of the introduction of electronic bracelet as an alternative to the reservation of traditional freedom.

The second requirement: the role of the electronic bracelet in the development of punitive policy.

Conclusion: There is a set of conclusions and recommendations.

The first topic

The concept of electronic surveillance and the historical development of this modern technology
Electronic surveillance, such as an electronic bracelet, is a form of censorship that is carried out using a technical means of digital nature. The aim is to strip the traditional censorship of its materiality and replace it with a remote one, without directly controlling the freedom of the person and without isolating him from his society and environment. To determine the nature of this system, it is necessary to divide this subject into two requirements. The first is to define the electronic monitoring system and its mechanism of work. Then we present in the second demand the historical development from its inception.

The first requirement: what is the surveillance by the electronic bracelet and the cases in which it is used?

Electronic surveillance (La surveillance électronique) is a generic term that includes many techniques, including those using radio frequencies, voice recognition technology, cell phone monitoring, satellite positioning, and other technologies that develop. As the future evolves, its tools expand beyond the monitoring of the site. "The electronic bracelet is one of these means, and it is necessary to understand what it is and what are the cases that lead the judge to resort to it.

Section I: The electronic bracelet

The electronic bracelet or, as it is called in France (Le bracelet électronique), is known as one of the innovative methods of carrying out the punishment or for the precautionary detention outside the walls of the places designated for arrest or execution. In which a person under surveillance is allowed to remain in his or her residence with certain restrictions on his or her movements through the electronic surveillance bracelet. Some also define electronic censorship as "forcing the sentenced person or detainee to stay at home or place of residence within specified hours so that the monitored person can be monitored through an electronic means."

We can define the electronic bracelet as an alternative electronic technology to reserve freedom, and uses this technology radio waves or satellites; in order to locate and control the observer at certain times and in certain places. This bracelet is powered by rechargeable batteries. It is placed around the human ankle to assist in verifying that the person under observation is in the specified place of residence and at specified times. It connects and connects two other devices, one called the La boîte, and the other the locator (Le GPS).

According to this optional alternative to the Freedom Book, a person is obliged to wear the bracelet throughout the period prescribed for observation. As well as his or her obligation to remain at home or a host's home within times specified by the judge (eg from 7 pm to 8 am). In the event of his leaving the place of residence specified outside the specified hours, an observer shall immediately notify the officers of the control and conduct officers by means of a remote alarm located in the box and connected to the control unit.

During the control period, the monitoring officer in the electronic surveillance unit monitors the controller through the site's location and contacts him to compel him to comply with the restrictions imposed on him, and even force him to respect the hours of presence in the place of residence.

This type of surveillance - highly developed in an era of modernity and sophistication – is not limited to knowing whether the person under surveillance is at his home or in his host's house at times when he is forbidden to leave. But it is possible to determine its location throughout the state accurately and to indicate the destination and the speed it travels when moving within the state. Thus electronic surveillance gives a detailed report on the nature of its activities through the study and analysis of its movements, thus providing a possible means to prevent the return of the accused under surveillance to fall into the trap of deviation and thus protect the electronic chain of society from a possible crime.

Section II: Cases where surveillance is used by electronic bracelet

Western legislation that takes control through electronic means of recourse in certain cases. In which the competent judge of the electronic bracelet takes an alternative to reserving traditional freedom. It is either a substitute for arrest, an alternative to imprisonment, or sometimes used before the end of the sentence.

I. Electronic bracelet as a means of preventive detention

When a person is suspected of having committed a crime, he or she shall be arrested and the competent authority shall decide, under an arrest warrant, to restrict the freedom of the accused for the benefit of the investigation.

According to the provisions of Article 14-14 of the French Code of Criminal Procedure, the power to detain the accused shall be in the hands of the judge of liberties and preventive detention. Where he examines the file and decides whether or not the arrest can be stopped and the arrest is only authorized. And may be ordered only in the crimes and misdemeanors punishable by imprisonment for a period of less than three years.

In the Code of Criminal Procedure of Jordan, according to article 111, the arrest is the authority and authority of the prosecutor, and it is only in the crimes and misdemeanors according to the mechanism prescribed by this law.

In some cases, Western legislation replaces the detention by subjecting the accused to such surveillance in order to determine his geographical location. The subject under probation shall have the duty to remain permanently in the address specified by the Liberties and Precautions Judge. Absence or travel is prohibited only in authorized cases. Monitoring this situation is a special, virtual way of arresting the accused, and does not constitute a substitute for arrest or judgment. The suspended detainee is prohibited from practicing his normal life, such as keeping his job or keeping a firearm, for example. The electronic reserve is also exempted from any accompanying measures such as social surveillance or any previous investigation of the situation under surveillance, as opposed to other cases of electronic censorship.

French legislation Surveillance by e-bracelet was adopted as an alternative to the precautionary detention in Act No. 1235/96 of 30 December 1996, but the objections to this system led to its repeal. The law was then revoked by the legislator and provides for the possibility of being reviewed again in the Law for the Promotion of the Innocence of the Patent issued on 12 July 2000. However, this system did not function as an alternative to the precautionary detention until the promulgation of the Law on the Direction and Administration of Justice on September 9, 2002,

And we do not know why the French legislator to stop the introduction of electronic mail as an alternative to arrest or custody of the reserve, as it has many advantages, including that it limits the infringement of the presumption of innocence, and at the same time a balance between the individual interest and the public interest, where it achieves a special deterrent without creating a feeling in the society to avoid the perpetrator of the crime.

II - Electronic bracelet as an alternative to imprisonment

French legislation, like Jordanian legislation, distinguishes between types of crimes in view of the magnitude of the penalty. Where the French legislator adopted this division since the promulgation of the Penal Code in 1790, and then confirmed this division in the first article of the law of 1810 and this division is still in force and regulated in the first ten sections of Article 131. The Jordanian legislator took the tripartite division of the crime and organized it Articles 25-14 of the Penal Code No. 16 of 1960.

Therefore, the electronic censorship of offenses and misdemeanors, which do not exceed the duration of the sentence of two years. The French legislator adds that it is conceivable to apply them if the accused committed a crime of the type of crime, in cases where the perpetrator benefited from legal excuses; or mitigated mitigating circumstances which reduced the sentence to two years of maximum freedom of detention. In this case, electronic surveillance in accordance with the French legislation, as an alternative punishment for imprisonment decided by the judge to execute the penalty after the verdict and after the verification of the possibility of using this means to the right of the sentenced.

The sentenced person shall be subject to the supervision under which he shall not be absent from his place of residence during the periods of observation, and shall not contravene the orders of the supervisory authority.

3 - Electronic bracelet as a procedure associated with judicial control

The Judicial Surveillance System According to the French Code of Criminal Procedure: a system that includes restrictive procedures for the freedom of the accused during the investigation period while keeping him free. And impose a number of obligations that limit his freedom without being robbed. These obligations prevent him from leaving his residence, and to respond to the directives of the competent authorities and deprive him of possession of arms and his presence in certain places.

The application of electronic surveillance, accompanied by judicial oversight, was adopted in French legislation through the Law on the Guidance and Restructuring of Justice of September 9, 2002. Its use was extended to persons subject to judicial supervision in the context of compliance with article 138-2 of the French Code of Criminal Procedure (Be away from his home or fixed residence determined by the judge to carry out the sentence only in the circumstances and reasons allowed by the judge). The working procedures and implementation of this law were the subject of Decree No. 2004-243 adopted by the Council of State on 17 March 2004.

It should be noted that judicial control is in line with electronic monitoring with regard to the objective of the two systems of reform and rehabilitation of the subject, and with regard to the discretionary power of the judge to apply penalties in France and the obligations resulting from the application of both systems. In contrast, the difference is clear. The most important of these differences is that the judicial control system is applied at the pre-judgment stage, while the

electronic surveillance is implemented by means of the bracelet in the post-judgment phase, except for the case where the electronic surveillance is applied to the accused before the verdict, the judiciary.

IV - Electronic bracelet as an alternative to reserve freedom at the end of the sentence

The electronic censorship imposed at the end of the sentence, which is called by the French legislator the term SEFIP, was introduced under Law No. 24 of 2009, which is a form of execution of the sentence whereby the rest of the prison sentence imposed in the residence is implemented. It is not a substitute for the penalties for deprivation of liberty, but rather a means of executing the sentence of imprisonment, which is usually imposed only at the end of the sentence, specifically in the last year of the sentence. This type of control shall be governed only in cases where the sentenced person has good conduct and when his character is commensurate with the nature of the electronic censorship. Nor shall it be taken in the event of material impediments to its application or if there are doubts that the return to the crime is conceivable. It should be noted that electronic surveillance imposed at the end of the sentence is used only in crimes punishable by penalties for which the period of imprisonment does not exceed five years, and no other alternatives to detention have been used.

The second requirement: the historical development of the electronic surveillance technology by electronic bracelet

Electronic surveillance passed through the electronic bracelet in several stages from birth in 1979, until the present time, when the technology was completed and became more effective. To illustrate this, we will explain the stages of development of control from the inception of the idea, and then the stages of development in the United States.

Section I: The birth of the idea of electronic surveillance and its development in the United States of America

The study of censorship through the electronic bracelet is a technical means that are not considered to be modern to the extent of fears of adoption or even acceptance. To illustrate this, we will discuss in this section the birth of the idea of the electronic bracelet and the stages of development of this technology in the country of origin.

First - the birth of the idea of electronic bracelet

The electronic bracelet is one of the modern methods of electronic censorship, which is considered the cradle of the United States of America. By the end of the 20th century, in 1979, the idea had been born by one of her judges, influenced by one of the science fiction novels published in the local press and one of her fictional characters, which was tied up with a sentimental bracelet showing her whereabouts. The fictional idea of the judge pushed a wild desire to translate it into reality, to limit the application of the punishment against freedom. In the belief that it is not the best way to combat crime, and in order to give a new opportunity to anyone who submits to the commission of minor crimes and do not commensurate with the punishment they committed. He only addressed an electronics engineer and asked him to develop the idea, and it was actually developed into a reality in 1983. The judge himself tested it for several weeks, in which it confirmed its effectiveness and applicability to those accused of minor crimes. As soon as they

were successful, five defendants, including a rape suspect, were subsequently placed under electronic control. The idea was quickly welcomed in all states, becoming the number of US states used for the e-mail after four years of testing in 26 states.

SECOND: Evolution of electronic surveillance in the United States of America

The application of electronic surveillance in the United States has evolved widely as a result of the scientific and technical development of the world, to the extent that it is difficult to accurately enumerate the numbers of those under electronic control. Federal penal legislation in the United States of America considers the electronic bracelet an alternative to amnesty and traditional grounds for detention, such as conditional release under probation or house arrest measures. It is also used more frequently for juvenile offenders, especially traffic offenders and drug abusers who usually need special surveillance within their communities. The number of people under electronic surveillance is estimated to be around 100,000. The number of people who undergo such alternatives to detention is estimated annually.

Four hundred thousand observers. Electronic censorship in US penal legislation is not considered an abstract monitoring tool, as it is usually associated with educational social monitoring by behavioral control officers, and therefore is not merely a control tool for the observer but a tool for rehabilitation and rehabilitation at the same time. It is excluded from the application of this type of censorship, of course, accused of committing crimes of a sexual nature such as rape and defamation and every accused of a crime with mental disorders and mental fear of returning to commit another crime.

Section II: Evolution of electronic control at the European level

The European legislation is one of the first legislation in the world to pay attention to electronic surveillance after the United States of America, we find this type of censorship in England, Sweden, France and Belgium. The United Kingdom and the Republic of Wales were among the first European legislation to take the electronic link in 1989, followed by Sweden in 1994, the Netherlands in 1995, France in 1998 and then Belgium in 1999.

1. Monitoring by electronic bracelet in the United Kingdom and the Republic of Wales

In 1989, after a six-month test, electronic surveillance was incorporated into the legislation of England and Wales under the Criminal Justice Act 1991, to be applied by all courts in both countries on 1 December 1999. Since the Criminal and Police Justice Act of 2001, Electronic surveillance has been applied to juveniles between the ages of 12 and 16 years of age. Who have committed serious crimes (violent or sexual offenses, or have committed crimes against adults, at least 14 years in prison) or those who have been accustomed to repeat crimes. Under which they are subjected to an intensive monitoring program in which juvenile delinquents who are accustomed to repeat crimes are tracked. This technology is often supported by video surveillance cameras installed in the city center that are able to identify the events of the bracelet.

It should be noted here that electronic surveillance is fully managed in these countries by the private sector, and they do not provide social and educational follow-up to observers.

2. Swedish Model in Electronic Monitoring

In Sweden, the electronic surveillance experiment began in some provinces in August 1994 and then spread to all provinces of the country from 1 January 1997. It was used as a mechanism for implementing short-term penalties of no more than three months. To apply this electronic alternative to detention, the individual must have a fixed address and telephone line. Supervisors are required to practice a certain profession or pursue their education to fill their free time. They are also required to contribute a token portion of the cost of implementing electronic monitoring (no more than 10 euros) to enhance their sense of responsibility and give them a more important role within their communities. Electronic surveillance in Sweden is often applied to persons convicted of drug or alcohol abuse after agreeing to undergo a follow-up program implemented by the local authorities, including lectures and panel discussions on good citizenship, addiction risks and poisoning resulting from substance abuse. Along with the various treatments required, and within the framework of a precise and systematic schedule, obligates the assignee to this observation to undergo automatic social follow-up. In case of breach of electronic house arrest, the local behavior control department is informed by a central computer located in Stockholm.

3- The situation is monitored by the electronic bracelet in France

Electronic censorship was introduced in France as an alternative to sanctions in the late 1990s under Act No. 1159-97 of 19 December 1997, which was regulated by the French legislature in paragraphs 7-13 of article 723 of the Code of Criminal Procedure. It involves forcing the observer to stay at home with an electronic device in the form of a bracelet. Under this type of supervision, the hours of exit and return to the home shall be determined by the JAP. During the period of supervision, the accused shall also submit two separate reports on his movements during the period of observation, one of which shall be submitted to the judge for the application of the sentence and the other to the prison counselor and the control of the state authority.

In the event of an "accident" in the application of the pre-programmed entry and exit program, the observer alerts through the screen of the electronic monitoring device connected to the electronic bracelet, and displays on the screen a statement that a violation has occurred as an "early exit" or "Absent" etc. The observer immediately calls the observer to ask him to determine the cause of the violation and to justify his violation of hours spent at home. Subsequently, as part of long-term monitoring, the Controller will review the incidents and provide a detailed and comprehensive report with the observer on the length of the observation period and the events involved.

All such information shall be sent to the judge, who, in turn, shall determine, as a result of such information, continued monitoring or cancellation.

In 2008, electronic surveillance by bracelet became the most widely used alternative to detention in France, accounting for 50% of all other alternatives to detention in the same year. And the resort to asylum is increasing continuously, bringing the number of people under electronic control until the beginning of 2015 about ten thousand people.

The second topic

The extent to which electronic surveillance is compatible with our punitive policy

The search for electronic surveillance and the accompanying developments in Western countries leads us to question the extent to which this technical means is compatible with our penal policy.

To determine this, it is necessary to first define the previous restrictions on censorship and then the conditions for their application.

The first requirement: restrictions in the case of the introduction of electronic bracelet as an alternative to the reservation of traditional freedom

The introduction of censorship through the electronic bracelet as an alternative to the penalty of detention of freedom, it is necessary to establish restrictions can not be subject to censorship of the person through the electronic bracelet. Namely the obtaining of personal approvals for the observer and his family, the availability of the requirement for the observer to undergo the necessary tests by the concerned authorities, in addition to the observer's respect of the agreed terms.

Section I: Restrictions on personal approvals to submit to the electronic bracelet

Electronic monitoring by means of a bracelet requires the necessary approvals. The first is the consent of the sentenced person or the detainee to be subject to censorship by means of electronic mail. Protection of the candidate's private life requires the consent of the host family.

First: the consent of the family of the observer and respect for private life

The censorship by means of the electronic bracelet raises some reservations for some Western jurists, mainly because it is detrimental to the sanctity of private life guaranteed by international covenants and all Western constitutions. The private life within the family is of great importance, as the family is considered the geographical and cultural space in which its members are located.

To mark a distinctive organization of their lives. This organization has rules and values and is a dividing line between the family and the outside world. However, through electronic censorship, it is clear that the penal policies of the countries that take the electronic control put their system and rules inside the residence of the observer, making the family and the house a different place than usual, a place of a special nature that could substitute for the centers of rehabilitation and rehabilitation and traditional prisons .

The information technology has contributed to the transfer of the place of punishment from the traditional location of the family house, making it a different place and open to electronic censorship, thus eliminating the special life of the family from privacy and sanctity.

Therefore, they do not restrict the freedom of family members, if they do not show their desire to be monitored by the electronic bracelet within the perimeter of their family. Therefore, the French legislator believes that the family's acceptance of electronic surveillance is a restriction and a basic condition for its application. For control in practice of psychological impact on all family members, especially young children.

Western legislation - which uses electronic fences as an electronic means of surveillance - is not limited to the consent of the family to subject a member to this type of censorship. The family's wishes and their personal freedoms and the inviolability of the family in general, and for the family, in the event of its consent to control, a partner in the process of rehabilitation, rehabilitation and reintegration of observers in society. In the opinion of the French legislator that the judge to appoint a social worker to verify the family situation, physical and social conditions of the observer and before proceeding with electronic monitoring to ensure that the family will be a reason for the success of censorship rather than a reason for failure

The extent to which electronic surveillance is compatible with the family environment is more important in the case of electronic surveillance than in the case of other alternatives to detention.

This is due to the long time spent by the observer within his family within the residence. The exclusion of the family in this case is considered a violation of the private life and its sanctity, protected by the Jordanian legislator in Articles 4/6, 7 and 10 of the 1952 Constitution, and Article 347 of Penal Code No. 16 of 1960. Violation of this restriction is in fact an explicit departure from the conditions the entry of houses without a memorandum that the legislator mentioned in Article 93 of the Code of Criminal Procedure, even if this entry was assumed by electronic means.

Second: The consent of the subject of the surveillance

The origin is that a person is born free and may not be deprived of his freedom unless he is convicted by a court order, has become a title of truth and reached the level of legal certainty. Just because the accusation does not negate the presumption of innocence, because it is based on doubt, certainty does not disappear with doubt. This principle is enshrined in various international conventions and in various constitutions, including the French constitution. Indeed, the French legislator passed a law called the Law to Strengthen the Innocence of Innocence on 15 July 2000. In the Jordanian Constitution, the legislator addressed this right in article 8, which states: No one shall be arrested or detained except in accordance with the provisions of the law. "As for human freedom, the constitution prohibits its restriction.

Article 7 stipulates that it is safeguarded and that it cannot be violated except in accordance with the provisions of the law. This is why Western legislation considers it to be controlled by means of a bracelet. The consent of the accused or the sentenced person is a basic condition for resorting to it, taking into account the person's freedom to choose the punishment that suits him.

It follows that the natural person without the moral can be subject to observation by electronic bracelet

In cases where the candidate is one of the events, we find that the French legislator had to accept the event for censorship and did not distinguish between the sexes. At the same time, it is agreed to be under the control of the convicted or of the accused who are subject to the judicial control system. According to some French jurisprudence, there is no need to subject the juveniles to censorship by electronic means. The fact that the event is in accordance with French legislation is punishable only by the detention of his liberty in rare cases and punishable only if he is over 13 years of age (the penalties are often mitigated).

In this context, we believe that electronic monitoring of juveniles should be applied. Although the Jordanian Juveniles Act No. 32 of 2014 provides for lighter and lighter punishments than those imposed on adults, this does not diminish the importance of applying the electronic monitoring system to them. As they are infected with the infection is faster than in the adult, it involves serious consequences to be followed.

Section Two: The conditions necessary for the nomination of the accused or arrested for censorship are met by electronic means

Subjecting a person to control requires a number of conditions, which must be applied so that the electronic control pays its fruits and even does not involve the risks, namely, the decision to judge by a competent authority and the observer's commitment to the imposed conditions.

First, the judgment is issued under the supervision of the competent authority

The implementation of censorship by means of an electronic bracelet requires the issuance of a judgment under the supervision of the competent judge. According to the French legislation, the competent judge varies according to the type of censorship, and is often issued either by the execution judge or by the arrest judge. The judge shall issue his judgment only by obtaining the aforementioned approvals. But before that, the French legislator requires that the candidate undergo a number of medical examinations and obtain a medical certificate stating that his / her health will not be affected by the use of the electronic bracelet. In addition to the need to be subject to a candidate to inspect a social guide, to ensure that it is not dangerous to society on the one hand

And to indicate whether it is able to respect the terms of control on the other. The candidate must have a permanent residence and be equipped with a telephone line, in order to communicate with him if he violates the technical control restrictions. According to the French legislator, the term of deprivation of liberty may not exceed two years, or one year if the accused commits an offense. In cases where the penalty is more than two years, it is necessary for the convicted person to benefit from the surveillance system by means of an electronic bracelet, if he is to remain in prison for a maximum period of two years. It should be noted that article 11.723 of the French Code of Criminal Procedure gave the judge the power to act on his own or at the request of the accused for his candidacy for censorship and after consultation with the prosecutor of the Republic and the judge alone has the power to amend the conditions of execution of the control order. The issuance of the control order in the French legislation shall not depend on the approval of the Public Prosecution. If the order is issued contrary to its will, then it may appeal the decision to the Court of Appeal.

Second: The observer's obligation to respect the conditions of electronic control

The person who is subject to electronic surveillance through the electronic bracelet is committed to many obligations, and the most important is the installation of the electronic bracelet under his leg during the period of control. As well as his or her obligation to remain at home or in any place designated by the Court, and within specified periods throughout the period of the sentence by electronic monitoring.

In addition, the Comptroller shall be bound by mandatory or compulsory controls (including the response of the Court's request to appear before it at any time in which he is required to appear before it, or to prevent the change of work). The Controller also complies with specific restrictions or obligations that vary from person to person. The latter shall be determined and imposed by the judge, as the case may be, and in view of the personality of the accused or convicted person, such as the prohibition of travel, prohibition of contact with a particular person or prohibition of presence in certain places. Under the French Penal Code, the observer is obliged to respect any measures imposed under articles 132-43 and 132-46. Including its obligation to respond to the invitation of any public authority appointed by the Court to supervise it throughout the period of control.

This technical process is supervised by a central organ usually followed by a penal institution, just as France does or entrusts to private institutions overseeing the oversight process. The United Kingdom is one of the countries that has pledged this task to the private sector. In this regard, we see the need to adopt the French model. This is because giving supervision over the supervision of

private institutions violates personal liberty, which may not be restricted except in accordance with the provisions of the law, and by a competent authority to impose punishment, which is the penal institution. In order not to interfere with their powers, these institutions lead to the failure of the primary purpose of the punishment and to harm the observer.

The second requirement: the role of the electronic bracelet in the development of punitive policy Despite the criticisms directed at the electronic dialogue, however, jurists are almost unanimous in that it contributed and contributes to the development of punitive policy of the countries to take it. This is due to purely economic reasons and others of a legal nature.

Section I: The economic reasons that call for the use of electronic bracelet as an alternative to traditional punishment

Freedom-free sanctions increase economic burdens. This is due to the influx of freedom fighters within the reform and rehabilitation centers and places of detention. In addition to the increasing and varied costs of repairing and rehabilitating Mahjouzi Al-Hurriya.

First, to limit the influx of freedom fighters within the reform and detention centers

There is no doubt that electronic surveillance has a role that can not be overlooked in reducing the inflation of preparing freedom fighters within the reform and rehabilitation centers. Since the Western countries began using the electronic link, their goal was clear and specific - to stop growing numbers.

Therefore, we find that these countries generally resort to simple provisions, which do not exceed the maximum sentence of imprisonment for a maximum of three years, or to release some prisoners in prison at the end of their sentence, and even before they benefit from conditional release, resulting in the reduction of overcrowding prisons. Despite the absence of scientific and statistical studies that show the impact of the use of the electronic bracelet to reduce the overcrowding of freedom-seekers within the centers of reform and rehabilitation, the increasing use in recent times by Western countries, including France, is no doubt that it contributes to reducing the number of freedom-bearers.

In addition, the provision of electronic surveillance contributes to reducing the integration of less serious criminals with the most serious, so that the electronic bracelet is therefore a means to reduce the unwanted mixing within the centers of reform and rehabilitation and arrest. Which is counterproductive to the reform process. The combination of these two categories does not provide the proper environment for reforming the less serious criminals; on the contrary, it provides a negative environment resulting from their association with another, more serious and criminal type that simplifies and commits crime. Which leads them to compare their crimes with those of dangerous criminals, thus creating a feeling that their actions (simple and naïve) do not involve their danger and thus lead to a world of criminality that is even more dangerous and dangerous, and push into criminality. In addition to their exposure to criminal infection, prisons remain overcrowded and the number of freedom-bearers grows without the achievement of penalties against freedom. The aim is to rehabilitate, rehabilitate and reintegrate convicted persons in their communities as a positive element.

One of the reasons for the introduction of electronic censorship is that there is a guarantee to protect the rights of those convicted of lesser crimes and to protect them from any violation or aggression caused by the most serious criminals. Or of those violations committed by the punitive authorities in some cases, and the practices of those involved in the abuse.

Which leads to the generation of a kind of hatred in this category of criminals, prompting them to enter into a state of hostility and revenge, prompt them to commit more serious crimes and ferocity. It should be noted that in France, the proportion of those sentenced to imprisonment for up to two years is one third of the total number of prisoners. This means that, in theory, subjecting this category to electronic surveillance leads to the vacuuming of rehabilitation and rehabilitation centers by a third of the number of freedom-givers.

The electronic bracelet is a means of reducing the high costs of restricting traditional freedom. One of the most important reasons for the introduction of the electronic bracelet is that it contributes effectively to reduce the cost of the traditional reform process, which is carried out within the centers of reform and rehabilitation and usually burdens countries economically and administratively. In France and other Western countries, the rate of reduction of financial expenditures for traditional reform and rehabilitation is estimated at one-third as a minimum of half a maximum. Members of the United States judicial system state that the cost of one day in prison is equivalent to three or four days in which a person is subject to electronic surveillance.

Electronic surveillance is an effective means of alleviating the weight of conventional punishment costs that weigh all countries, including the most economically stable. However, these figures are not important because they take into account the indirect costs incurred by the state when building rehabilitation and rehabilitation centers and the role of juvenile care, and allocates financial allocations to manage them, without considering the other sporadic and indirect expenses that require large sums of money.

In Jordan, the state has an annual income of 64 million dinars for sheltering and feeding 8,000 inmates living in 14 rehabilitation and rehabilitation centers. This expenditure accounts for 1% of GDP. In addition to these costs, the state allocates funds to the families of about 1021 inmates, out of 8 thousand, amounting to 134 thousand dinars per month (and 6108681 dinars annually), and receives 1747 cash support from the aid fund, estimated at 757560 dinars per year, 6450 inmates per year from in-kind assistance provided to inmates of rehabilitation and rehabilitation centers. Despite the lack of criminal information management statistics on the number of convicts or detainees in criminal cases, which may be the subject of electronic surveillance, the statistics indicate that 16602 criminal offenses committed during the year 2015. And until the replacement of the penalties for freedom with more modern and less expensive, our policy will remain punitive. Western policies have been developed, to keep the centers of reform and rehabilitation overcrowded and the State will cost each year about 64 million dinars. 40% of the inmates will be infected with crime, as well as the negative effects, which are reflected on the families of guests and the community in general. It should be noted that the cost of introducing e-mail as an alternative to freedom-related penalties does not exceed 10% of the current expenditure on correctional and rehabilitation centers, and thus reducing the frequency and recurrence of crimes, and criminal infection decreases to 10%.

Section II: Legal and social reasons for the introduction of electronic communications as an alternative to restricting freedom

Perhaps the most important reason for the introduction of electronic dialogue is that it balances the interests of the individual and the interest of society. It also reduces the chances of our and thus is considered an effective means of combating crime.

Second: The electronic bracelet is a means of reducing the high costs of restricting traditional freedom

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First, the electronic dialogue balances the interests of the individual and the interests of society

Unlike the freedom-based sanctions, the electronic surveillance system in alternatives to the detention of liberty achieves a great deal of balance between personal rights and freedoms and the right of the state to protect society from crime.

This is reflected in the opportunity given to the observer to self-correct, without which it is in the interest of the State to punish the perpetrators of the least serious crimes. There is no denying the physical and psychological harm caused by the detention of freedom in the traditional sense, whether in detention or in detention, since they are also negative for freedom; they also make a difference to freedom-holders in various aspects, such as health (physical and psychological) and social relations.

- There is no doubt that restricting the freedom of the accused constitutes a violation of his health and his right to the integrity of his body and himself, and the interpretation that the meaning of the right to the integrity of the body is not limited to the preservation of physical health, but also to protect the human soul. In addition to being negative for freedom, imprisonment also causes physiological and psychological changes to the limits of freedom, as a result of changing his various social habits, such as sexuality, diet and the healthy environment.

According to some of the jurisprudence based on the opinion of experts of psychiatry, censorship by electronic bracelet is not without prejudice to the safety of the human soul. However, with the acknowledgment of the validity of these views, it is not possible to compare censorship by electronic bracelet and traditional sanctions. The first one, although it involves psychological damage, is almost negligible when compared to the risks resulting from the detention of traditional freedom. The consent of the subject under review is also sufficient reason for the violation of the inviolability of the body and the same observer.

- People who are deprived of freedom, in addition to their harsh punishment, face a more severe and harsh punishment, which is the view of rejection and disdain by the members of society and the social isolation of even the closest people. While this view is clear to freedom-watchers or those who have already restricted their freedom, electronic surveillance is the normal,

Also did not escape criticism, where some see the reason for the isolation of the social observer, as a result of the creation of a sense that it is a danger to the community. In fact, the comparison between restricting traditional freedom and electronic surveillance is illogical, since those who are subject to incarceration often cannot hide their order from those around them. On the contrary, there is a person who is subject to electronic surveillance residing in his home and exercising his normal life. The surveillance system requires that the electronic bracelet be fixed around the ankle so that it is not noticed by members of the community. Thus protecting the observer from his community's view, which is often lacking in compassion and mercy. In sum, the electronic bracelet achieves a great deal of protection for the right of the individual to accept the society, which is not achieved in the penalties for freedom.

Second: Electronic monitoring reduces the chances of return

Repetition or repetition from the point of view of all legislation, including Jordanian law, is an aggravating circumstance for crimes and misdemeanors of a personal nature related to the same repeater. The scholars believe that the reason for the repetition of the crime is due to a fault in the punishment that was not sufficiently deterrent to the perpetrator.

In the opinion of Western jurisprudence that the use of electronic surveillance through the electronic bracelet, may be a reason to reduce the return or to fall back into the trap of crime. Studies show that those released after being monitored electronically are less likely to repeat crimes than those who are subject to freedom-related penalties or other alternatives to detention. This is due, among other reasons, to the fact that the selection of qualified persons for electronic censorship is subject only to the penalties imposed on them and their duration, the type of crime committed, and the personality of the sentenced person.

Despite the variation in Western legislation in determining the duration of the sentence, which determines the possibility of censorship of the electronic link or not, but it almost gathered that the electronic control is imposed only on those sentenced to short sentences, which prevents them from being merged with those sentenced to other more serious criminal penalties within the reform and rehabilitation centers. To limit electronic censorship of the adverse effects of the reform process resulting from the integration of less serious criminals with dangerous others, thereby causing them to be corrupted. The type of crime also has a role in determining whether electronic surveillance can be imposed or not. Electronic crimes are excluded from electronic surveillance, such as rape and defamation, or in cases where the accused or convicted person has serious mental illness, His security to the observer himself, to his family members and to other persons around him. In view of the right of detainees, we find that Western legislation does not impose electronic censorship unless there are family problems between the convicted person and his family or serious reasons that prove that the ruling cannot be applied electronically.

This is evidence that such legislation considers that there is no need to restrict the freedom of persons who do not pose a threat to security, and thus merely simply supervises their right to prevent their return and recurrence of other crimes. If we take the idea that the offender is a non-social person who commits acts of conflict and the interests of other members of society. We do not see here that separating the sentenced person from prison or imprisonment will reduce his hostility to society, but will increase his social isolation and thereby aggravate his hostility to society. And otherwise generate electronic surveillance, a kind of social cohesion and stability. Where a candidate for observation often has to identify a house or a house for the living in which he shares life with his family members, which leads the result to contribute to the reform process.

The family has an effective role in influencing its members and in preventing them from falling into criminality again. Moreover, electronic censorship does not usually require the need to reintegrate convicts into their communities after the expiration of the sentence, as in the case of freedom-related penalties. On the contrary, the electronic dialogue contributes to the strengthening of the social ties that connect the observer to his family on the one hand, and his community on the other. In addition, the electronic bracelet contributes to the punishment of the convicted in more humane conditions than those provided by the rehabilitation and rehabilitation centers. The legislation in force on the electronic dialogue provides for the feelings of the convicted person against injustice. To differ his view of the authority that dealt with him humanely, then respects the legal rules imposed by the Authority voluntarily and voluntarily, so that the bracelet prevents the return.

Electronic surveillance also indirectly contributes to reducing the recurrence of crime, but this depends on a host of other complementary factors associated with censorship through electronic communication. Ranging from the escort of the observer by the observer of behavior in the electronic control room, and the judge who determines the cycle of the possibility of continuing electronic control or not based on the actions of the sentenced, without which the procedure loses much of its meaning. Where this form of control continues even after the expiration of the sentence, due to the continuous communication between the observer and the sergeant. In addition, his presence within the family of his family feels responsible, increasing the sense of the observer in his environment and lead him as a result to respect this virtual means and then to respect the rules of law and non-recurrence. In addition, it is usually used to monitor the person permanently and throughout the day and throughout the sentence, unlike the methods of detention of freedom and other alternatives to detention, thus providing a sense of security in individuals.

The observer protects himself from evil, and thus keeps him from falling into the trap of criminality again.

Conclusion

We have dealt with this subject of importance in terms of the subjects of criminal law, which is the electronic control by means of the electronic bracelet, showing the nature and nature of the legal conditions and picture, and we see that the majority of Western penal legislation has adopted this system since the middle of the twentieth century. As we have come to the end of this analytical study of the electronic dialogue, we have to shed light on the results we reached, and the most important recommendations and proposals are as follows:

Results:

1. It is clear to us that the Jordanian legislator, contrary to all Western legislation, including the French legislation, did not deal with censorship by electronic means as one of the alternatives to detention in its criminal legislation, citing only the alternatives of traditional detention, which are restricted to suspension, fines, parole,), Ignoring the role of modern technical means in developing its penal policy and combating crime.
- 2 - The electronic bracelet is a new concept on the Arab criminal legislation, including Jordanian legislation and this type of modern monitoring techniques will provide new and wide options for the issuance of judicial decisions imposed by the competent court.
- 3 - Despite the absence of accurate statistics of the impact of electronic bracelet on the fight against crime in Western countries, including France, but the recent increase in use in these countries leaves no doubt that it contributed to and contribute to reducing the inflation of the preparation of freedom of freedom in the centers of reform and places of detention Traditional.
- 4 - Increasing the phenomenon of criminal infection among those sentenced within the penal institutions in the world and in Jordan in particular, and the return of the criminal cause the demise of the prestige of the penal institution and led to the State to incur high costs, and to raise doubts about the effectiveness of sanctions, especially short-term freedom.

Recommendations:

1- We believe that the Arab criminal legislation, including the Jordanian legislation, has taken the idea of monitoring through electronic communication seriously, so that it will be one of the most prominent features of the reforms that are expected to be adopted and put into practice in the coming years. As their work may signal the transformation of these countries from traditional punitive policies in favor of contemporary punitive technical policies that are in line with the objectives of the criminal justice system.

2. In addition to the penalties stipulated by the criminal legislation, which are the penalties for freedom and fines, we hope that the legislator should address the alternatives of detention, including the electronic bracelet, through clear legal texts and append these texts to a system that shows the mechanism and how to apply them to the offender by the court. In the event of their introduction and the conditions and obligations of the sentenced, and until the prison is the last resort when issuing judgments.

3 - The need to adopt the electronic bracelet as an alternative to arrest in cases where judicial arrest is not permissible and raises doubts with the Public Prosecutor or the judge or in crimes where the arrest is permissible.

4 - The need to adopt the electronic bracelet as a penalty associated with penalties other than the negative of other freedom, especially the community, or in case of suspension of the implementation of the penalty so as not to generate a feeling within the community to escape the convicts from punishment.

5 - The importance of resorting to this electronic means of control in cases where the accused is an event or a female or a senior age or persons with special needs or suffering from a specific physical disease prevents the imposition of a penalty of deprivation of liberty against him.

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