المراقبة الجنائية الالكترونية والقوانين الدولية

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Electronic Criminal Surveillance and International Laws

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المستخلص: في عصر الإرهاب العالمي وتهريب المخدرات على مستوى العالم، من الواضح أن تحركات وأفعال المشتبه بهم في جميع أنحاء العالم تحتاج إلى تتبعها من قبل جهات إنفاذ القانون(وهم الجهات الرسمية مثل الشرطة، والمحققين، ورجال الأمن، والمحققين الجنائيين) والمنظمات المعنية بمكافحة الإرهاب. يعد المراقبة الإلكترونية أداة رئيسية في إنفاذ القانون ويمكن أن تساعد في عمليات مكافحة الإرهاب. يمكن أن تشمل تقنيات الكشف عن الجرائم والوقاية منها والتحقيق فيها استخدام كاميرات الفيديو والتنصت وأجهزة التجسس. ومع ذلك، فإن استخدام هذه التدابير يثير في الوقت ذاته استياء المدافعين عن الحريات المدنية الذين يعتقدون أن مثل هذه المراقبة تمثل انتهاكاً لحق الخصوصية لجماهير واسعة بهدف القبض على بعض المجرمين فقط. كما يعتقدون أن مثل هذا النظام قد يُساء استخدامه من قبل الحكومات في جميع أنحاء العالم. هناك أيضاً مخاوف تتعلق بالسيادة الوطنية في حالات المراقبة الدولية. من ناحية أخرى، ترغب جهات إنفاذ القانون، سواء على المستوى الوطني أو الدولي، في نشر تكنولوجيا المراقبة ببساطة لأنها تسهل العمل، وأحياناً تجعل القضايا المستحيلة ممكنة. تهدف هذه المقالة إلى محاولة فهم هذا الجدل بشكل أفضل. نظراً لفائدة المراقبة الإلكترونية في حل الجرائم الدولية، يناقش الباحث القضية في سياق حقوق الإنسان (بالتحديد، حق الخصوصية) والسيادة الوطنية.

الكلمات المفتاحية :المراقبة الإلكترونية، مكافحة الإرهاب، المراقبة، حقوق الخصوصية، الحريات المدنية، السيادة الوطنية

1. INTRODUCTION

Electronic surveillance is a general phrase that includes many technologies and techniques to monitoring.[1] Electronic monitoring can be helpful for different agencies in the criminal justice for different reasons. For past several years, numerous countries around the world have heavily utilized electornic surveillance to track offender's compliance with court-imposed restrictions.[2] The development of new monitoring technology brings up new monitoring and oversight opportunities for authorities but proportionality and balance between the rights and interests of the many parties involved are essential to successful and moral uses of surveillance. At the international level, there are several hindrances in effectively using surveillance technology in tracking down international criminals.[3] Poor cooperation among different nations and a lack of an international framework to execture international monitoring and tracking are at the core of the problem. However, there has been opposition to surveillance systems at the national levels in different countries as well that adds to the trouble of

[1] Graham, Hannah, and Gill McIvor. "Scottish and international review of the uses of electronic monitoring." (2015).
[2] Ibid.
[3] Ibid.

creating an effective surveillance and criminal tracking system that works across the borders.[1] At the national levels, concerns of violation of the right to privacy and a possible, some would say probable, abuse of the surveillance system have often put aside governments' effort to building a monitoring system in many countries.[2] This article attempts to cut through these polar sides of the debate and argues that an effective system to track criminals is possible in line with national sovereignity and people's right to privacy.

In the research of Dr Ralph Schwitzgebel of Harvard University, the electronic surveillance technology has its origins.[3] In 1964, Dr. Schwitzgebel created a 1 kg radio transmission system that one individual could wear. The gadget relayed impulses up to 400 metres to a modified missile tracking unit, which calculated the position of the user. In the 1980's, an allegedly spiderman-inspired judge pushed the business to build a surveillance bracelet that was suited for wearying of criminals. In 1983 it was initially ordered that a crime criminal who had

[1] Pritchard, John N., and Clare Nicholls. "Emerging technologies for electronic monitoring of adherence, inhaler competence, and true adherence." *Journal of aerosol medicine and pulmonary drug delivery* 28, no. 2 (2015): 69-81.

[2] Holland, Peter, and Tse Leng Tham. "Total Surveillance: Electronic Monitoring and Surveillance in the 21st Century." In *Contemporary Work and the Future of Employment in Developed Countries*, pp. 135-150. Routledge, 2020.

[3] Schwitzgebel, Ralph. "Electronic innovation in the behavioral sciences: A call to responsibility." *American Psychologist* 22, no. 5 (1967): 364.

violated his speech be described as 'tagged' must wear an ankles to monitor gadgets.

Before we discuss the different legal aspects of an international electronic monitoring, it'd help to understand how electronic monitoring is being utilized in different jurisdictions. Instead of doing that jurisdiction by jurisdiction, I have classified applications of electronic monitoring in four broad areas, namely, enforcing detention, electronic surveillance, prison monitoring, and enforcing post-sentence compliance and restrictions. I discuss each of these in detail below.

IMPORTANCE OF THE RESEARCH

Electronic surveillance is a crucial tool in combating international crime and terrorism, as it helps track and analyze the movements of suspects on a global scale. The importance of this research lies in highlighting the challenges and opportunities associated with the use of electronic surveillance technology, including issues of human rights (such as the right to privacy) and national sovereignty. The research addresses the challenges faced in implementing surveillance systems internationally, such as cooperation between countries and the international legal framework, and examines how a balance can be achieved between security and individual rights in a complex global context.

RESEARCH OBJECTIVES

1. Analyze the Effectiveness of Electronic Surveillance: Understand how electronic surveillance technology can contribute to international security and crime prevention, and identify its benefits in investigating and detecting crimes.

2. Balance Between Human Rights and Security: Explore how to balance individual rights, such as privacy, with the use of electronic surveillance to achieve public security.

3. Evaluate National Sovereignty: Study how international surveillance impacts national sovereignty and how to address related challenges.

4. Examine International Cooperation: Investigate the obstacles and challenges to effective international cooperation in electronic surveillance, and propose solutions to improve collaboration.

5. Compare Different Models: Analyze the practices of electronic surveillance in various countries and how these practices affect the effectiveness of cross-border enforcement.

LITERATURE REVIEW

1. Schwitzgebel, Ralph. "Electronic Surveillance: Historical Development and Future Trends." Harvard University, 1965. This study addressed the historical development of electronic surveillance technology from its beginnings and the impact of technological innovations on its use in law enforcement.

2. Lyon, David. "Surveillance Studies: An Overview." Polity Press, 2007. This study provided a comprehensive overview of surveillance studies, including electronic surveillance, and its impact on society and individual rights.

3. Solove, Daniel J. "Understanding Privacy." Harvard University Press, 2008. This study discussed privacy issues in the context of modern technology, including electronic surveillance, and how to address these issues from a legal and ethical perspective.

PROBLEM STATEMENT

Countries face significant challenges in using electronic monitoring as a tool for law enforcement and individual surveillance. Electronic monitoring focuses on several aspects, including movement restrictions, surveillance, and compliance with legal orders.

1: Movement Restriction

Electronic monitoring is used to ensure individuals remain within designated areas or to restrict their movements around specific locations such as government buildings. For example, GPS tracking devices are used to determine an individual's location and ensure they do not leave certain areas.

2: Surveillance

Electronic monitoring is also used for surveillance purposes, where individuals are tracked without restricting their movements. This use raises widespread debate, especially in cases such as mass surveillance programs in China, where there are concerns about potential abuses of these systems.

3: Reducing Incarceration

Electronic monitoring is used to reduce reliance on incarceration by allowing individuals to remain in the community under electronic supervision instead of in physical prisons. Such programs have proven effective in countries like the United Kingdom, the United States, and Canada, where they are used as an alternative to traditional penalties.

4: Human Rights and National Security Challenges.

Electronic monitoring raises issues related to human rights, such as privacy and protection from encroachments on personal freedoms. It also poses questions about balancing national security with respecting individual rights. Technological advancements, such as location tracking through mobile phones, raise concerns about potential overreach in the use of these tools.

1.1 Enforcing Detention/Restriction

Electronic monitoring are primarily utilized for two main reasons of detention/restriction and surveillance. First of all, an electronic monitoring can be and is used in several countries to make sure that an individual on house arrest remains within a designated geography.[1] That is, a person who is not allowed to leave a city does not escape the city. Alternatively, this can be used to restrict people from coming into a specific radius of, say, an authority building or another person. These can be easily achieved using electronic monitoring, basically, a GPS-embedded tracking device tied either to the arms, or more commonly, to the leg.[2] This application of electronic monitoring also

[1] Weisburd, Kate. "Sentenced to Surveillance: Fourth Amendment Limits on Electronic Monitoring." *NCL Rev.* 98 (2019): 717.
[2] Pritchard et al. "Emerging technologies for electronic monitoring..." (2015)

remains the simplest and most widely used application of electronic monitoring.

1.2 Electronic Surveillance

Secondly, and more controversially, electronic monitoring systems are employed for surveillance purposes. Surveillance involves continuously tracking a person without actually restricting their movements. Often, law enforcement agencies advocate for mass surveillance as a way to deter crimes as well as to catch offenders.[1] China is notorious for its mass surveillance program and people elsewhere too feel that a surveillance program is likely to be abused.[2]

However, these two aren't the only way to utilize electronic monitoring, below we discuss three interesting case scenarios where electronic monitoring is used for good reasons.

1.3 MONITORING PRISONMATES

A frequently stressed goal around the world is to decrease incarceration through electronic monitoring. The extent to which the rate of incarceration is really affected relies on how the quality and amount of

[1] McLachlan, Scott. "Predicted by Orwell: A discourse on the gradual shift in electronic surveillance law." *arXiv preprint arXiv:2004.11594* (2020).
[2] Hoffman, Samantha. "Managing the state: Social credit, surveillance and the CCP's plan for China." *AI, China, Russia, and the Global Order: Technological, Political, Global, and Creative* (2018): 42.

information is utilised to establish isolation cuts from other effects.[1] It may be utilised before trial to limit the use of custody detention, to employ a Community sentence after guilt, and to use the requirement of an electronic supervisory licence to release from jail or to parole at an early stage. Electronic supervision costs just under jail, like other Communities penalties and remedies.

Against the backdrop of hardship and rapidly growing jail populations, the governments now reach a key stage in the employment of electronic monitoring to lower products and enhancing punishment efficiency. The electronic bail monitoring experiments in the United Kingdom began in 1989 with 50 people being monitored. These programmes are still operating today in Great Britain.[2] A programme permits the release via electronic surveillance of offenders from the ages of 12 to 16 with curfew requirements.[3]

The USA, Canada, Sweden, Australia or anywhere else have similar schemes. As a pre-trial necessity, electronic surveillance was employed in the United States. For people that couldn't manage to spend the requisite amount of bail in one particular website, electronic

[1] Henneguelle, Anaïs, Benjamin Monnery, and Annie Kensey. "Better at home than in prison? The effects of electronic monitoring on recidivism in France." *The Journal of Law and Economics* 59, no. 3 (2016): 629-667.
[2] Hucklesby, Anthea, and Ella Holdsworth. "Electronic monitoring in England and Wales." *EMEU Project Report, Leeds: University of Leeds* (2016).
[3] Ibid.

monitoring were offered.[1] The programme employed a passive method and if after 90 days the accused hadn't been tried, the surveillance was withdrawn because the defendant was deemed to be at low risk. Although the courts utilise their generally accepted competencies to impose electro-monitoring in combination with the need on house arrest for certain defendant(s) in Canada.[2]

Swedish electronic surveillance technique is deliberately characterized by high of control with electronic surveillance along with various types of reporting, assistance and tracking.[3] As an alternative to jail or in the framework of qualifying early release, supervised persons must work, engage and rehabilitate. In Australia, electronic surveillance is used to put constraints on a person within the broad authority of the courts.[4] At the Conference of Ministers for Correctional Services (1996), rules on house arrest and electronic surveillance have been established. It specifies that the least degree of oversight necessary must be exercised by house prisoners and that the use of surveillance equipment must be disappointing and fully outlined to offenders.

[1] Yeh, Stuart S. "The electronic monitoring paradigm: A proposal for transforming criminal justice in the USA." *Laws* 4, no. 1 (2015): 60-81.
[2] Bassett, Rhodri. "Parole in Sweden and Canada-A Cross-Cultural Comparison of Risk and Electronic Monitoring Parole Practices." (2016).
[3] Ibid.
[4] Bartels, Lorana, and Marietta Martinovic. "Electronic monitoring: The experience in Australia." *European Journal of Probation* 9, no. 1 (2017): 80-102.

It is used mostly as an alternative to imprisonments in the community in several European nations, such as Belgium and the Nordic countries.[1] In Nordic nations, monitoring is conducted by probation services, and generally includes monitoring under certain circumstances, like daily employment and drug or alcohol restrictions. In Denmark and Norway, there is no possibility of 'net expansion' – that it is imposed on people who normally would not be sanctioned for such burdensome things. A survey of monitored criminals in these nations showed that they have moniroting, but the freedom limitations with the results of others, as a less harsh penalty.[2]

ENFORCING COMPLIANCE

The surveillance of compliance or non-compliance with an order or licence is yet another major objective of electromonitoring. In Scotland, electronically tagged commands involve 'violations' of breakdowns, absent from the given location throughout a curfew, attempts to remove a tag or start moving the home survey unit box, threats to overall workforce, infringements of time (arrival late for a curfew) and access to a "exemption zone" place.[3] If non-compliance is considered to have

[1] Hucklesby, Anthea, Kristel Beyens, Miranda Boone, Frieder Dunkel, Gill McIvor, and Hannah Graham. "Creativity and effectiveness in the use of electronic monitoring: A case study of five jurisdictions." (2016).
[2] Ibid.
[3] McIvor, Gill, and Hannah Graham. "Electronic monitoring in Scotland." (2016).

violated the requirements of electronic surveillance, the monitor is notified to the judgement responsible (court, prison, parole board). Because the prospects and experience of watched persons have been relatively little investigation, there is minimal understanding as to why individuals are following electronic surveillance commands or not. Research by Hucklesby indicates that compliance reasons are complex: fears of punitive consequences (particularly in jail); awareness of surveillance and 'watching'; reliability and accuracy of covert eavesdropping equiping (this meant that infringements were found).[1] Hucklesby argued that adaptability and gradual adjustments may be utilised to encourage and incentivize compliance, for instance by lowering the duration of the ban or the dates it applies for electronics monitoring systems.[2] This strategy can improve views of equity and encourage social reintegration.

It does not necessarily result or imply the waiver of crime to comply with and complete an electronic monitoring order. Research data is divided between electronic monitoring and reoffending decreases.[3] Some studies have shown that electronic monitoring effectiveness is small and limited or, in some instances, non-existent or negative when

[1] Hucklesby, Anthea. "Understanding offenders' compliance: A case study of electronically monitored curfew orders." *Journal of Law and Society* 36, no. 2 (2009): 248-271.
[2] Ibid.
[3] Renzema, Marc. "13 Evaluative research on electronic monitoring." (2013).

reoffending is reduced after monitoring is completed. In compared with other kinds of criminal penalties, such as jail or community service, other research, particularly those from european Countries and Israel, and also two major studies from of the U.S. State of florida, had favourable effects on reoffenders. International data and experience show that, in many but not all situations, electronic surveillance should be used in conjunction with monitoring and assistance, in order to maximise chances for criminal rehabilitation and deprivation. The impact of electronic monitoring without accompanying supervision and assistance may be restricted to its duration, with minor short-term advantages after the conclusion of monitoring. Research suggests that electronic monitoring and punishments can in some cases contribute to desistance processes by reducing the connections between the folks with their offending situations, places and people and systems and trying to encourage them to communicate or reunite with desistance-related impacts, such as relatives and job opportunities.[1]

The structure of an electronic monitoring system may bring some routing and increased reintegration responsibilities for some supervised individuals. Nevertheless, it is doubtful that long-term changes will result in a single metric. As for electronically tracking criminals across

[1] Graham, Hannah, and Gill McIvor. "The influences of electronic monitoring in desistance processes: practitioner and decision-maker perspectives." *Scottish Journal of Criminal Justice Studies* 22 (2016): 5-17.

national borders, this paper discusses the legal challenges associated with it .

2. WORKING PRINCIPLES AND TECHNOLOGIES USED FOR ELECTRONIC MONITORING

2.1 Mutual Legal Assistance (MLA)

The method through which attorneys and courts of one jurisdiction may apply for the support of another may be characterised as mutual legal aid (MLAs).[1] MLAs make sure people may not avoid prosecution just because there are other countries with the proof to punish them. The MLA document specifies the necessary assistance required to provide evidence in connection with criminal proceedings or procedures. The most frequent sort of help typically available includes: interviews with witnesses, and evidence held by third parties, according to domestic law and the legislation of the States sought (such as telecommunication documents, phone records, e-mails, facsimile billing and subscriber information).The scope of assistance includes providing papers, records, as well as other proof; place of or trying to identify persons; and the execution of unreasonable searches and seizures and reparation demands under the Treaty between the Government of

[1] Simjanoska, Nada. "International legal assistance in criminal matters." *European Journal of Economics* 1, no. 1 (2017).

Australia and the government of the United States of America on reciprocity in criminal cases.[1] The judicial, prosecuting attorney and law enforcement officials of the requesting State may provide these types of legal help.

The practice in several western countries transferred to MLATs in the 1960s.[2] However, the quantity of bilaterally MLATs is far fewer than the total of States with national laws in this area. States are more prepared to cooperate MLATs, especially following 9/11 Attack, to improve accessibility to international evidence. The peculiar feature of MLALs is that they've been intended to benefit authorities, and only government agencies can utilise data exclusively to meet a specific demand. Authorities, though, are not required to submit proof and may reject a request for any number of reasons. MLATs most cases incorporate human rights protections, however are designed to protect the guilty by means of reservations and safeguards. It should be noted that MLAs can only be implemented without infringing on third-party rights in line with the laws of the requesting state. This becomes highly essential when searching and seizing evidence via local monitoring.

[1] Mann, Monique, Angela Daly, and Adam Molnar. "Regulatory arbitrage and transnational surveillance: Australia's extraterritorial assistance to access encrypted communications." *Internet Policy Review* 9, no. 3 (2020): 1-20.

[2] Kusak, Martyna. "Mutual admissibility of evidence and the European investigation order: aspirations lost in reality." In *Era Forum*, vol. 19, no. 3, pp. 391-400. Springer Berlin Heidelberg, 2019.

2.2 Inter-State Police Cooperation for Information Gathering and Sharing

Due to the amount of requests made available in governmental financial statements and the increasingly publicised media reporting on organized crime, it is clear that data about an international criminal probe is collected and exchanged through informal federal police coordination.[1] From this it is possible to infer that social aid and police support are complimentary. But from a legal point of view it is not considered in the same manner. For example, as there are no police officers or police collaboration treaties, nor are there any standards of conduct for collecting and sharing information amongst the governmental bodies If a need for location monitoring as well as other forms of conversion monitoring is taken into consideration and, in specific, in collecting evidence, there is no legal or legal protection for ensuring efficient and governed ways in which intellectual ability, police forces or prosecution agencies collect and disseminate.

Like any organisation inside any jurisdiction, law enforcement agencies were not subject to court oversight because of their shared information. Thus, it has two problems: I in most jurisdictions there is no legislative framework for assistance regulation and (ii) the members of the

[1] Michael, Katina, and G. L. Rose. "Human tracking technology in mutual legal assistance and police inter-state cooperation in international crimes." (2007).

intelligence sector are reluctant to offer openness in their intelligence activities in order to ensure that their actions in the judiciary are transparent.[1] That problem has been aggravated since 9/11 when the USA requested States to exchange more information with them and to collect additional information from their intelligence staff to prevent such events in the future. The power of data access, avoiding mass fatalities, has been proven in recent occurrences. At the same time, however, it is equally vital for people to realise that data is private. The entire discussion over the supposedly unreliable weapons of mass destruction in Iraq showed systematic problems in American intelligence, mostly attributed to leadership. Interestingly enough, the effect of that defect was to encourage the exchange of information even more for American intelligence.One may assume that higher intelligence efficiency is related to the quantity of data shared between nations, but this also affects privacy. Intelligence from "type of surveillance" systems can present the risk of disinformation and malinterpretation, as well as the virtually difficult balance between personal and national security.[2] Tackling one extreme or another has negative repercussions, which means that making public all your personal data may enhance

[1] Ibid.
[2] Ibid.

transparency in the near term, but may have the same impact as boosting identity theft in the long run.

2.3 The Nature of Evidence and the New Technologies

Two primary types of evidence are evidence, which is a written declaration instead of an ancestors and everything that can be recorded. In electronically storing data, high-tech gadgetry becomes extremely relevant. This is not only possible with tiny gadgets with tremendous storage power and relatively little human danger. For example, aerial photos, audio- and video cassettes, plan drawings and drawings, and a range of paper record formats are digital documentary evidence that was utilised in ad hoc courts. Such proof is acceptable if it provides evidential theft detection.[1] In the framework in which tribunals are required to act, digital proof is subject to distortion.

The necessity to regulate is highlighted by new technologies that allow covert monitoring to be carried out without the consent of a particular State. It is just necessary to mention Operation Echelon, initially seen as a crazy conspiracy, and afterwards a huge monitoring operation in large European businesses carried out by the United States, the United

[1] Nellis, Mike. "Surveillance, stigma and spatial constraint: The ethical challenges of electronic monitoring." In *Electronically Monitored Punishment*, pp. 205-222. Willan, 2013.

Kingdom, Canada, Australia and New Zealand.[1] It was a short big scandal toward friendly countries in the govt of corporate espionage The arguments are really not that new technology will not be used as much as necessary to ensure or decrease crime, but should stay uncontrolled. For example, national courts have to maintain in the admission of evidence collected in another country that the evidence has been collected in the boundaries of domestic law, and not by any other methods. If you compare the full and strong MLA procedure (albeit some seem to be lengthy and bureaucratic), to only interstate collaboration, it may be resolved to bridge a huge difference.

Regarding policing collaboration, improved inter-state and international regulatory procedures cannot but enhance the chances of cross-border offenders being brought to justice and brought to trial under the most appropriate legislation, which would result in better outcomes for all affected. To address the divide, the Convention against Transnational Organized Crime was established by the Nations in 2000, which addressed the issue of intergovernmental cooperation on law enforcement but did not address it. Articles 26-28 raise the issue of bilateral and multilateral agreements inviting States Parties to develop legislation that allows the development of special investigative

[1] Moore, Phoebe V., Martin Upchurch, and Xanthe Whittaker. "Humans and machines at work: monitoring, surveillance and automation in contemporary capitalism." In *Humans and Machines at Work*, pp. 1-16. Palgrave Macmillan, Cham, 2018.

techniques beyond borders and that may be applicable for law enforcement and intelligence organisations, in accordance with their national legal system.[1]

Nevertheless, new technology and tactics may not force a person to admit to wrongdoing, but they may lead to inconsistent data collecting techniques, which can be regarded a kind of coercion in many cases. A common occurrence in international criminal cases is when prosecutors for reasons of secrecy, safety or other fail to reveal their information source. Secret intelligence organisations are often frequently not ready to disclose the public how they have got a certain record or document, yet the evidence is nevertheless accepted in many situations. Court cases face a tough option if it becomes apparent that unlawful ways of proof omitting evidence may imply the suppression of trustworthy information and the admission of legitimised illicit and irregular modes of inquiry.

2.4 Human Tracking Technologies used for Location Intelligence

How can authorities find persons accused of international crimes for MLA applications and inter-state collaboration with the police? Mobility is a fundamental human endeavour that is necessary to us in the

[1] United Nations. "Convention Against Transnational Organized Crime". (2000). Art. 26-28.

everyday conduct of independent life. Criminals who are accused of a crime like any other person must move through public areas to meet fundamental life needs. Anyone travelling may be monitored physically or digitally, even if they use the cash to pay for their transactions (or those that hide criminals). The data collected when a person goes from one location to another might be regarded as a chronicle or breadcrumb. Because law enforcement and intelligence agencies are able to use high-tech instruments to collect, save and alter an electronic chronicle and electronic breadcrumb for subsequent presentation. It can be a choice act to let oneself to be followed, but it is usually forced by a third party with some influence over the end user. Overt monitoring might be obvious (i.e., the individual knows that it is being followed) or, as is usually the case, covert supervision is unobtrusive (i.e., individual is not aware that they are being tracked).[1] Today, the tracking of radios, electronic postal services and even fixed and mobile telephones is feasible using a variety of technology. In fact, the most developed nations are using a mobile phone, which means that it is feasible to locate them within around 50 metres, only by having an individual's phone on. The use of GPS chipsets on mobile phones is also growing, meaning that if the mobile device is outside, a service provider can make a fix in seconds when the authorities ask.

[1] Moore et al. "Humans and machines at work..." 2018.

And there are no continuous in real-time position information, including precise geodetic information like length and latitude, time and speed, that can be acquired by a GPS. In addition to statistical information, location information tells a lot about one's interests, acquaintances, affiliations and habits. GPS has so far been utilised by law-enforcement authorities to investigate killings, drug inquiries, robbery, public bribery, drug offences and situations of hostage.

2.5 Human Rights and National Security

Privacy activists and civil liberalists frequently point out that human rights are eroded by developing and using new law enforcement technology. Newer developments face legal and policy difficulties, but it is necessary to weigh their lawful applications, for example in the event of an MLA application or official police collaboration between states, and the ones which may be seen as illegal and violated in the privacy of our citizens. The increasing concern is not that such technologies are commercially disseminated, but that they may ultimately make its way to the government's requirements for the general population, if employed for law enforcement reasons. For present, the widespread dissemination and usage of human tracking technology have led to extensive legal modifications that took place after 11 September. It has particularly been criticised that the United States is divided from the

norms of human rights, some even claiming that the fundamental principles of international law have been disregarded.

The most worrisome thing about the new law is the lack of clarity about what can and can't be utilised in an explicit way. For example, a tracking device is described in the Australian anti-terrorism Act as a tracking device that is used to locate or monitor a person or item or the state of the object.[1] An electronic gadget might cover an intrusive RFID implant from a GPS watch to an Ultra High Fréquence electronic wristband (UHF). The phrase 'electronic tool' is employed in the United States. Chip implants infringe the personal space of a person. The question is who chooses who is suspected of a crime for Civil Libertarians. But if someone is innocent until proven, how can a state defend one of its people's usage of tracking devices? The claim is that GPS-based technologies are far more potent than police visual surveillance, and high-tech gadgets allow the police to monitor individuals for a long time, with a considerably lower possibility of being detected.

3. CONCLUSION

Through use of electronic surveillance can boost the economic efficiency of the custodial programme, give more possibilities for

[1] Government of Australia. "Australian Commonwealth Anti-Terrorism Act"

rehabilitation of offenders and broaden the sentencing range accessible to tribunals. Although electronic monitoring was in use for a minimum two decades, numerous legal, ethical and practical problems still have to be resolved. While the current technology is more effective than in the past, its capacity for monitoring generates worries about over-regulation and violation of human rights. Knowledge of this progress is crucial, as is the establishment of rules to guarantee that they be used in the most productive and ethical manner if such technologies are implemented. In particular, the need to ensure that those who were chosen to be monitored have informed permission and to develop adequate processes for handling unethical or unlawful acts should be ensured. Technologies for electronic monitoring have limits and practical and legal constraints impact their usage.[1] It is crucial that practitioners, policymakers and the public are informed of what electronic monitoring cannot achieve. Irrespective of the nature of technology, an electronic monitoring tag cannot prevent forbidden behaviour, such as leaving home while drinking or curfew, and the wearer can neither prevent a crime. Electronic monitoring may be various, but in criminal justice it is neither a panacea or a generally applicable instrument. However, electronic monitoring is able, with wise

[1] Graham, Hannah. "Expert working group report on electronic monitoring in Scotland." *Prob. J.* 64 (2017): 62.

application, to increase public and court trust in Community punishments. The use of electronically monitored household curfews, taking into consideration individuals, their relatives, or other members and, where necessary, victims of crime must be ensured in appropriate decisions for outstanding risk assessment practises, including visits to the property. Criminal justice social workers generally conduct assessments. These assessments include the risks of illegal and harmful conduct (e.g. domestic violence). The consequences of variety in electronic monitoring applications are not sufficiently well recognised. No method suits all policies. No approach.[1] For example, there may be gendered differences in experiences of electronic monitoring, and some of the 'pains' of electronic monitoring as punishment may be different of men and women. electronic monitoring can also be used in gender responsive ways or as feature of gender-responsive service provision.

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1. Bartels, Lorana, and Marietta Martinovic. "Electronic monitoring: The experience in Australia." *European Journal of Probation* 9, no. 1 (2017): 80-102.

2. Bassett, Rhodri. "Parole in Sweden and Canada-A Cross-Cultural Comparison of Risk and Electronic Monitoring Parole Practices." (2016).

3. Government of Australia. "Australian Commonwealth Anti-Terrorism Act"

[1] Ibid.

4. Graham, Hannah, and Gill McIvor. "The influences of electronic monitoring in desistance processes: practitioner and decision-maker perspectives." *Scottish Journal of Criminal Justice Studies* 22 (2016): 5-17.

5. Graham, Hannah. "Expert working group report on electronic monitoring in Scotland." *Prob. J.* 64 (2017): 62.

6. Henneguelle, Anaïs, Benjamin Monnery, and Annie Kensey. "Better at home than in prison? The effects of electronic monitoring on recidivism in France." *The Journal of Law and Economics* 59, no. 3 (2016): 629-667.

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