

THE ROLE OF ALTERNATIVE JUSTICE IN RATIONALIZING PENAL POLICY IN ALGERIA " ELECTRONIC MONITORING AS A CASE STUDY "

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Abstract :

This Study assesses the effectiveness of alternative justice, particularly electronic monitoring (e.g., ankle bracelets), in Algeria's criminal policy. It examines whether such measures can rationalize punitive approaches while upholding rights under Law No 15-02 (Criminal Procedure Code) and Law No 18-01 (Prison Regulations). Key goals include evaluating electronic monitoring's role in reducing prison overcrowding, rehabilitating offenders, and minimizing unnecessary restrictions on personal freedom, particularly for minor crimes.

The work done is grounded in Algeria's modern criminal policy, emphasizing restorative justice principles. It analyzes legal frameworks governing non-custodial penalties, focusing on electronic monitoring technologies (e.g., GPS tracking) and recent reforms in criminal procedure and prison laws.

This research contributes by critically analyzing Algeria's legal framework for electronic monitoring-a progressive yet understudied penal reform. It offers policy recommendations to strengthen implementation while preserving justice and human rights.

key words: *electronic monitoring; alternative justice; penal policy; personal freedom; alternative to punishments.*

Introduction:

The penal policy seeks to rehabilitate and correct offenders, reintegrating them into society as reformed individuals. To enhance the effectiveness and credibility of the rehabilitation process, modern penal legislation has incorporated the principle of electronic monitoring during the actual execution of sentences, thereby safeguarding individual liberties.

As part of modernizing the criminal justice sector in line with human rights requirements, the Algerian legislature introduced electronic

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monitoring (specifically electronic anklets) through Ordinance 15-02 amending the Code of Criminal Procedure. This measure serves as an alternative to pretrial detention, verifying the defendant's compliance with judicial supervision obligations, and as an alternative sentencing measure under Law No. 18-01 on Prisons and Social Reintegration of Inmates. Algeria has become the second African country to adopt electronic monitoring after South Africa, which implemented this modern technology in its justice sector reform and modernization program.

Electronic criminal monitoring systems -whether as an alternative to custodial sentences or pretrial detention- represent one of the most significant outcomes of technological progress, profoundly impacting penal policies in most contemporary justice systems that have adopted them.¹ Recent trends have emerged advocating for more effective penal systems capable of achieving modern correctional objectives, fundamentally centered on rehabilitation and social reintegration beyond prison walls.²

Given the significance of this subject - considering that electronic monitoring, as a form of alternative justice, represents an innovative mechanism aimed at modernizing the justice sector and avoiding the drawbacks of traditional punitive measures - this article will attempt to examine this topic and address the following key issues:

To what extent is alternative justice, represented by electronic monitoring as a substitute for incarceration, effective in avoiding the negative aspects of traditional penal policy?

What are the implications of implementing electronic monitoring on the rationalization of Algeria's penal policy?

To address these questions, the study will be divided into two sections:

Section One: will focus on conceptualizing alternative justice and electronic monitoring, while

Section Two: will examine the impacts of electronic monitoring implementation on penal policy in Algeria.

1- CONCEPTUAL FRAMEWORK OF THE STUDY

This section will examine key conceptual terms relevant to the study. First, we will define alternative justice (First Requirement), followed by an analysis of electronic monitoring (Second Requirement) as a penal mechanism.

1.1 THE CONCEPT OF ALTERNATIVE JUSTICE

Alternative justice refers to: “a set of legal mechanisms designed to resolve disputes more efficiently and at a reduced cost, representing its

positive aspect. Conversely, its negative aspect manifests in avoiding the formal judicial process”.³

This definition highlights how alternative justice models vary across legal systems. Alternative justice may operate as a component of the formal justice system (i.e., the judiciary), where judicial authorities implement alternative justice mechanisms to overcome obstacles and challenges faced by judges in adjudicating cases. Examples include mediation, arbitration, electronic monitoring (e.g., ankle bracelets), and other procedures that protect parties' rights, address case backlogs and delays, and enhance public confidence in the judicial process.

Alternatively, the alternative justice system may operate in parallel to the ordinary judiciary, where cases are adjudicated by non-judicial actors through procedures that bypass conventional courts and formal judicial bodies. This approach resolves disputes expeditiously and decisively.

The United States pioneered the adoption of alternative justice in the modern era to mitigate the complexities and exorbitant costs of its judicial system, where trials often drag on for months or years, accumulating millions in legal fees. This system's expansion to other countries, including Algeria, was further driven by case backlogs, adjudication delays, and the imperative for judicial reform and modernization.⁴

Algeria adopted this system to strengthen its justice sector by promoting fairness and equity while avoiding procedural complexities. Thus, it can be argued that alternative justice in the Algerian procedural system serves as a complement to - rather than a replacement of - the judiciary. The procedures applied for dispute resolution remain under judicial oversight, operating in parallel with traditional courts to achieve amicable justice without excessive formalities.⁵

Among the fundamental principles of alternative justice is the avoidance of liberty-restricting measures and the enhancement of the judicial system through modern techniques aligned with contemporary needs, thereby achieving desired justice sector reforms. This is the approach adopted by Algerian legislators through a series of amendments to the Algerian Constitution (most recently in 2020),⁶ the Code of Criminal Procedure, the Penal Code, and the Prison Reform Law. These amendments focus on enshrining human rights, the right to a fair trial, and the presumption of innocence, which prohibits restricting an individual's liberty except under the strictest necessity, while strengthening the judicial system through alternative measures to detention, such as electronic

monitoring.

*Based on the aforementioned data, the study conducted by Penal Reform International classified Algeria among the countries that have sought to strengthen human rights in their national legislation. Its penal policy has adopted measures to enshrine human rights principles and protect individual freedoms, while introducing new standards that justify avoiding pretrial detention.*⁷

1.2 THE CONCEPT OF ELECTRONIC MONITORING

*Electronic monitoring constitutes a judicial supervision mechanism that verifies an individual's compliance with court-ordered restrictions, such as remaining in a designated location or avoiding prohibited areas.*⁸ *Judicial supervision represents: 'the transition from liberty-restricting detention to liberty-monitoring supervision.'*⁹

1.2.1 LEGAL DEFINITION OF ELECTRONIC MONITORING

*The electronic monitoring system, commonly called the "electronic bracelet", requires sentenced individuals or pretrial detainees to remain at their residence or designated dwelling during specified hours, with their compliance being tracked electronically. It is an innovative method for executing sentences or pretrial detention outside prison walls, allowing monitored individuals to stay at their residence while imposing movement restrictions through electronic monitoring devices.*¹⁰

*From jurisprudential perspectives: "An electronic remote monitoring system that verifies compliance with court-ordered residence requirements by tracking an individual's presence/absence from designated locations. It permits convicts to remain at home while restricting and surveilling their movements via a device affixed to their wrist or ankle".*¹¹

Accordingly, electronic monitoring constitutes remote supervision via electronic devices to:

Track a convict's presence within court-approved geographical boundaries under house arrest regimes; verify compliance with imposed residence conditions.

The electronic monitoring system (commonly termed 'electronic bracelet' or 'home detention') operates by:

-Requiring sentenced individuals/pretrial detainees to remain at their residence during specified hours;

-Using a transmitter device (wrist/ankle bracelet) to enable monitoring centers to confirm the subject's presence/absence at court-mandated locations/times;

-Computerized reports on compliance status and the offender's

exact whereabouts are generated.¹²

The legal definition of electronic monitoring is codified in Article 5 bis 7 of Penal Code No. 24-06, which stipulates: “Electronic monitoring entails the mandatory wearing, by a definitively sentenced individual, of an electronic bracelet for the duration of their court-imposed penalty. This device enables authorities to verify the offender's presence at a location designated by the sentence enforcement judge, which they are prohibited from leaving without judicial authorization”.¹³

The electronic monitoring system was first developed in the United States in 1960 when Harvard researchers prototyped an electronic bracelet. Initial testing involved juvenile offenders, though the technology faced public skepticism. In 1983, its first judicial application occurred in a New Mexico court, marking its formal adoption in the U.S. as an alternative to pretrial detention and custodial sentences.¹⁴

In Algerian legislation, the electronic monitoring system was adopted as: An alternative to pretrial detention under Ordinance 15-02 amending the Code of Criminal Procedure;¹⁵ A substitute for custodial sentences under: Law No. 18-01 on Prison Organization and Social Reintegration of Inmates;¹⁶ Law No. 24-06 enacting the Penal Code.¹⁷

1.2.2 CHARACTERISTICS OF ELECTRONIC MONITORING

The electronic monitoring system (electronic bracelet) is characterized by the following technical-legal features:

- a) *Tamper-proof:* The device's security lies in its resistance to breaking, opening, removal, or deactivation.
- b) *Traceable:* Monitoring authorities can detect and locate the wearer's position even at significant distances.
- c) *Reliable source:* Operates with professional accuracy in tracking locations, though as a mechanical device, it remains susceptible to malfunctions.
- d) *Privacy-respecting:* While imposing restrictions, it maintains the monitored individual's personal life integrity.¹⁸

The electronic bracelet operates by transmitting electronic signals to a remote monitoring center through wireless communication devices, enabling real-time location tracking and timestamp verification of the wearer's presence in designated areas. Its security features include:

- a) *Tamper Alert System:* Automatic alarm activation upon unauthorized removal.
- b) *Environmental Resistance:*
 - *Waterproof* (up to 30m depth)
 - *Heat-resistant* (40°C to 80°C)

- Humidity/dust/vibration/impact/UV-resistant
- Pressure-tolerant (up to 150 kg)
- c) *Dual-Power System:*
 - Internal: Rechargeable battery
 - External: Charged via dedicated electrical adapter (powers internal battery)
- d) *Tracking Technology:*
 - Embedded SIM card
 - Multi-system positioning (GSM/GPRS/LBS/GPS)

The electronic bracelet is typically ankle-worn for 24 hours/day, with two primary operational systems. First, GPS Satellite Tracking (U.S. Model): Utilizes GPS technology for real-time location monitoring via satellite with internet support. Second, Radio Frequency (RF) System (French Model): Emits signals to a landline-connected home device, which relays data to monitoring authorities via fixed/mobile networks.¹⁹

According to Article 150 bis of Law 18-01, the Algerian legislature has adopted the Continuous Transmission Method (CTM). Under CTM, the monitored individual remains confined to their residence with restricted, electronically supervised movements via a wrist/ankle-worn device. This system operates as follows:

- a) *Device Mechanism:*
 - The transmitter (bracelet) sends periodic signals to a fixed receiver (installed at home/work/school).
 - The receiver relays data to the monitoring center.
- b) *Geofencing:*
 - The monitoring center validates: Device functionality; Subject's presence within court-approved boundaries; Compliance with judicial contract.²⁰

2- IMPACT OF ELECTRONIC MONITORING ON ALGERIAN PENAL POLICY

The electronic monitoring system represents a modern penal approach, enabling remote supervision of convicts outside prison walls. However, under Algerian law, sentence enforcement judges may only substitute custodial sentences with electronic monitoring under strict statutory conditions. Convicts must comply with specific legal obligations; violation triggers reversion to the imposed initially custodial penalty.

The Algerian legislature has adopted electronic monitoring as an innovative form of alternative justice to mitigate the drawbacks of traditional punitive measures under Law 18-01.²¹ and Law 24-06.²² and its impacts on rationalizing Algeria's Penal Policy.

2.1 CONDITIONS FOR APPLYING ELECTRONIC MONITORING AS AN ALTERNATIVE TO PUNISHMENT AND ITS OBLIGATIONS

The Algerian legal framework imposes specific conditions restricting sentencing judges' discretion to apply electronic monitoring, while mandating strict compliance obligations for convicts. These will be analyzed through the two following branches:

2.1.1 CONDITIONS FOR APPLYING ELECTRONIC MONITORING AS AN ALTERNATIVE TO CUSTODIAL SENTENCES

Articles 5 bis 7 and 5 bis 8 of the Algerian Penal Code establish the following mandatory conditions for substituting custodial sentences with electronic monitoring:

- a) No Prior Violation: The defendant must not have previously violated obligations under electronic monitoring.*
- b) Eligible Offenses: Applicable only to crimes carrying a final custodial sentence ≤ 5 years.*
- c) Judicial Sentencing Limit: The imposed penalty must not exceed 3 years (as pronounced by the sentencing judge).*
- d) Defendant's Consent: Requires the convict's explicit consent, documented during court proceedings (Art. 5 bis 8).²³*

In addition to the aforementioned legal conditions, electronic monitoring in Algeria is subject to a set of practical requirements. The monitored individual must have a fixed residence, and if sharing the dwelling with others, must obtain their written consent. The residence must be equipped with a landline telephone connection. Furthermore, the subject must provide a medical certificate confirming that wearing the electronic bracelet will not adversely affect their health.²⁴ The convicted person must also pay all court-imposed fines and comply with all legally mandated obligations throughout the monitoring period. These material conditions complement the legal framework to ensure the proper implementation of electronic monitoring as an alternative to incarceration.²⁵

2.1.2 OBLIGATIONS OF ELECTRONIC MONITORING AS AN ALTERNATIVE TO CUSTODIAL SENTENCES

Based on the provisions of Law No. 18-01, especially Article 150 bis 5 and bis 6, when subjecting a convicted person to electronic monitoring, the judge must impose a set of legal obligations on the convicted individual, including:

- a) The convicted person shall not leave their home or the designated location specified by the sentence enforcement judge during the periods established in the monitoring order, while being permitted*

to engage in professional activities, pursue studies or training, attend internships, maintain employment, or receive medical treatment.

- b) The sentence enforcement judge may subject the convicted person under electronic monitoring to one of the following measures:*
- Engaging in professional activities or pursuing education or vocational training;*
 - Refraining from frequenting certain specified locations;*
 - Avoiding contact with certain convicted persons, including principal offenders or accomplices in the crime, and particularly avoiding contact with certain individuals, especially victims and minors;*
 - Complying with health, social, educational, or psychological support conditions aimed at facilitating social reintegration.*
- c) The convicted person shall be required to comply with all summons issued by the sentence enforcement judge or public authorities.²⁶*

If the convicted person fails to comply with these obligations without legitimate justification, the sentence enforcement judge shall be notified to take necessary measures to enforce the original imprisonment sentence. In such cases, the convicted person will serve the custodial sentence in a correctional institution, with the duration of electronic monitoring deducted from the total sentence period pursuant to Article 5 bis 11 of Penal Code No. 24-06. Furthermore, if the convicted person evades electronic monitoring by removing or disabling the electronic monitoring device, he shall be subject to prosecution for the crime of escape under Article 5 bis 12 of Penal Code No. 24-06.²⁷

2.2 IMPACT OF ELECTRONIC MONITORING ON RATIONALIZING PENAL POLICY IN ALGERIA

Modern criminal policies have increasingly turned to alternative solutions within the framework of alternative justice to mitigate the drawbacks of short-term imprisonment, particularly for minor offenses. Electronic monitoring, as a contemporary punitive measure, has effectively addressed criminal behavior while fulfilling the core objectives of punishment: deterrence, rehabilitation, and social reintegration. This approach balances humanitarian considerations to protect human rights and personal freedoms while allowing the state to avoid prison overcrowding and reduce the substantial financial burdens on public treasuries.

Therefore, we will outline the positive effects of implementing

electronic monitoring as an alternative to short-term imprisonment on penal policy through the following key points:

2.2.1 REHABILITATION AND REFORM OF THE OFFENDER AND PREVENTION OF RECIDIVISM

The imposition of short-term imprisonment often produces detrimental psychological and social consequences for convicted individuals, fostering feelings of frustration, humiliation, resentment, and hostility that may lead to desires for societal retaliation. Rather than facilitating rehabilitation, this punitive approach frequently complicates social reintegration, potentially resulting in the offender's alienation from society and loss of trust in community structures. In many cases, the experience of incarceration proves counterproductive. Instead of reforming the offender, it may push them toward renewed criminal behavior, thereby undermining the intended benefits of correctional rehabilitation programs and rendering reintegration efforts ineffective. This paradoxical outcome highlights the need for alternative sanctions that achieve punitive objectives while avoiding the criminogenic effects associated with short prison terms.²⁸

To mitigate the aforementioned drawbacks, electronic monitoring serves as an effective means of achieving the fundamental objectives of punishment - reforming and rehabilitating offenders while reintegrating them into society as productive members. Modern empirical studies demonstrate that electronic monitoring yields positive outcomes in rehabilitating convicted individuals and reducing recidivism. By avoiding exposure to the harsh realities of prison life - including overcrowding, isolation, and inadequate rehabilitation programs - electronic monitoring prevents the criminogenic effects of incarceration that often exacerbate criminal behavior post-release, rather than fostering genuine reform.²⁹

2.2.2 REDUCING PRESSURE ON PENAL INSTITUTIONS

Electronic monitoring plays a crucial role in mitigating the shortcomings of traditional punitive approaches. Numerous researchers have concluded that correctional institutions increasingly fail to fulfill their core mission of rehabilitating offenders and reducing crime, as they often corrupt first-time offenders rather than reform them. Additionally, incarcerated individuals frequently learn new criminal techniques from more experienced inmates. Consequently, legal scholars have advocated for replacing short-term imprisonment with alternatives that actively support offender rehabilitation.³⁰

Moreover, reliance on traditional punitive policies that predominantly impose custodial sentences as the default measure

exacerbates prison overcrowding. This congestion undermines correctional facilities' rehabilitative function and amplifies criminogenic risks,³¹ a problem significantly mitigated by implementing of electronic monitoring systems.

2.2.3 REDUCING EXPENDITURES AND ALLEVIATING STATE BUDGET BURDENS

Electronic monitoring aims to substantially reduce the significant financial expenditures incurred by the state for incarcerated individuals, including costs related to food, housing, clothing, as well as the construction, maintenance, and security of prison facilities.³² This has prompted many countries to allocate dedicated budgets for prison administration.³³ Public spending on prison administration represents purely consumptive expenditure rather than productive investment, as it generates no financial returns. In contrast, redirecting these funds toward crime prevention, such as creating employment opportunities and entrepreneurial projects for youth, would yield tangible benefits. Such investments would help reduce crime rates by addressing root socioeconomic causes, while fostering greater social stability, security, and overall community well-being. This approach aligns with evidence-based strategies demonstrating that economic empowerment initiatives are more effective than punitive measures alone in achieving sustainable public safety outcomes.³⁴

Conclusion

In pursuit of upholding fair trial guarantees rooted in human rights principles and reducing liberty-restricting measures, Algerian legislators have worked to establish a balanced approach between traditional justice systems based on custodial sentences as the general rule and alternative justice mechanisms that simplify procedures and limit the scope of freedom-restricting penalties - particularly for minor offenses - with electronic monitoring emerging as one of the most significant alternatives. This reform reflects Algeria's commitment to modernizing its penal policy while respecting fundamental rights, as it reduces reliance on incarceration for less serious crimes and introduces more proportionate, rehabilitative sanctions that maintain public safety without unnecessarily depriving offenders of their liberty.

Algeria's penal policy has evolved significantly, with legislators adopting a comprehensive approach to combating crime through rationalized punitive measures and alternative justice mechanisms. This modernization extends to incorporating advanced technologies throughout all stages of criminal proceedings - from investigations and inquiries to

trial and final judgment - and even during penalty execution. The reforms serve a dual purpose: firstly, to enhance protection of human rights and personal freedoms, and secondly, to achieve the fundamental objectives of offender rehabilitation, correction, and social reintegration. This technological integration reflects Algeria's commitment to developing a more effective and humane justice system that balances public security concerns with individual rights protections.

Among the most significant alternative justice mechanisms advocated by modern justice sector reforms is the electronic monitoring system, introduced as an alternative to short-term imprisonment to alleviate prison overcrowding and reduce the substantial financial burden on state treasuries. Although Algeria's experience with electronic monitoring remains relatively new, this innovative mechanism has demonstrated notable effectiveness in rationalizing modern penal policy and avoiding the drawbacks of traditional punishments that have failed to reduce crime rates. On the contrary, crime continues to increase, with the emergence of even more dangerous criminal patterns. This reality makes the search for alternatives that simultaneously combat crime, enhance deterrent methods, and contribute to offender rehabilitation and correction an imperative necessity.

Algeria's experience with electronic monitoring remains nascent, necessitating key recommendations:

- a) *Technological Modernization:* Equip penal institutions with advanced monitoring technologies to address technical shortcomings that undermine system effectiveness.
- b) *Legislative Reforms:* Enact laws prioritizing non-custodial alternatives for minor offenses, reserving imprisonment only for serious crimes (*ultima ratio principle*).
- c) *Academic Engagement:* Through conferences and publications, encourage research on restorative justice models and their integration into Algeria's legal framework.
- d) *Regulatory Clarification:* Strengthen legal texts to standardize electronic monitoring procedures, ensuring judicial consistency.

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