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Electronic Monitoring and the Crisis  
of the Brazilian Prison System

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of the Brazilian Prison System

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Ricardo Urquizas Campello  
Center for the Study of Violence, University of São Paulo (NEV/USP)  
Graduate Program in Social Anthropology, State University of Campinas  
(PPGAS/UNICAMP)  
São Paulo, Brazil

*Translated by*

Claudio Altenhain  
Institut für kriminologische Sozialforschung  
Universität Hamburg  
Hamburg, Germany

Sebastian Nascimento  
Institut für Gesellschaftswissenschaften,  
Europa-Universität Flensburg, Centro de  
Estudos de Migrações Internacionais  
Universidade Estadual de Campinas  
Curitiba, Brazil

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*This book is dedicated to those people who,  
incarcerated or subjected to remote  
monitoring systems,  
were willing to engage in the exchanges  
along the path of the research.*

*They are in the middle of nowhere and do not even realize in which region the Colony is located. Out there, beyond the vast expanses and empty spaces, there is silence pushing them into nothingness.*

*(Ana Paula Maia, Assim na terra como debaixo da terra)*

# Foreword: Perverse Effects of an Alternative Sanction

Following many other countries around the world, Brazil finally succumbed to the appeal of the electronic ankle, institutionalized by a federal law in 2010. And it is this decade-long experience that this book by Ricardo Urquizas Campello recounts, in what is, to my knowledge, the first in-depth investigation into the use of electronic monitoring (EM) in Latin America's largest country.<sup>1</sup>

In recent times, the imposition of house arrest with electronic surveillance on a number of politicians and businessmen accused of corruption and money laundering as part of the *Lava Jato* (Car Wash) investigation has lent a high profile to this measure. But it is, in a way, the tree that hides the forest. And Ricardo Campello's interest is focused upon this hidden dimension, that is, upon the vast majority of people subjected to EM, who do not belong to the wealthy classes, but rather to the usual "clientele" of the criminal justice system – Black and marginalized people, formally convicted or otherwise subjected to pretrial measures. With this in mind, he offers us a work organized into five chapters and an introduction, written in a clear and fluid style, which skillfully combines theoretical and historical considerations, ethnographic research, and analysis of the arguments developed by advocates and opponents of this device. Well anchored in the scientific literature on EM and particularly sensitive to the theses of Michel Foucault, Gilles Deleuze, and Langdon Winner, Ricardo Campello pays close attention to the specific features of the Brazilian case.

Brazil's particularities make it an especially interesting case study when it comes to testing broad theories with an international scope. As a federative republic, where criminal law is the responsibility of the central government, but prison matters are the responsibility of the federal states, Brazil presents a great variety of configurations that favor internal comparative research. In the present case, the ethnographic investigation was carried out in the states of São Paulo and Rio de Janeiro – the

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<sup>1</sup>This book is the result of a doctoral thesis in Sociology (USP), whose development I followed while supervising the author during his research internship at the Centre de recherches Sociologiques sur le Droit et les Institutions Pénales (CESDIP, France) in 2018, under a FAPESP BEPE grant. This work won the CAPES and ANPOCS thesis awards in 2020.

country's central economic axis – and in the states of Ceará and Maranhão – located in the poor Northeast region. As such, the book lays the groundwork for further systematic research that would span the entire country.

The Brazilian context also offers another propitious element, at least in theory, for the implementation of EM: the reality of an ever-increasing prison population, sheltered in atrocious conditions of overcrowding, human rights abuses, and violence of all kinds, including when waged by massive criminal organizations that reproduce within the prison walls the brutality of the conflicts that take place outside. In this context, largely because of the ineptitude of the authorities, EM could be perceived as a solution to unclogging prisons.

In view of this, as is often the case in other countries, the scope of application of EM was quickly extended to new legal hypotheses, and the number of people being tracked grew at a rapid pace. Not faster, though, than the prison population, and so Brazil provided further proof, if any were needed, of the utopian futility of replacing incarceration with EM. Quite the contrary, the book shows to what extent prison and EM, far from being antagonistic, coexist in symbiosis. This provides a new twist on the expression “virtual prison,” often applied to EM: prison remains in fact an ominous possibility that ensures the obedience of those monitored from a distance.

This is only one of the many incongruities of electronic surveillance pointed out by the author. Analyzing the inner workings of the sociotechnical system that constitutes EM, from the relations between the monitoring agents, responsible for recording the alleged violations of judicial rules, and the criminal enforcement judge, in charge of imposing penalties, the author points out the true “hierarchical inversion” that derives from it: the monitoring agents are the only operators capable of determining, with a fair amount of discretionary power, if such or such violation is due to a flaw in the system or to a deliberate fault by its user, liable to more serious penalties. The judge, as well as the monitored individuals themselves, can do no more than take note of this assessment, which, according to the reports collected by the author, quite often leads to unjustified sanctions.

For readers from outside Brazil, however, the most remarkable perverse effect of implementing EM in this country is undoubtedly the evidence that the use of an anklet constitutes a kind of criminal marker that, just like the ancient branding in hot iron, identifies its wearer as a felon in the eyes of the general public. It is evident that this trait can be more or less observed in all countries, driving many of its users to hide their anklets from the public eye. However, to my knowledge, Brazil is the only country where this situation poses a risk of death to those wearing the EM device, either by making them potential targets for militia groups, as in the case of Rio de Janeiro, or for criminal gangs that control certain territories in Ceará and São Paulo (and which, in order to recognize their members or sympathizers, require that they wear the anklet on their right or left leg, depending on which gang they belong to).

Hence, far from representing, as is often the case in other countries, a moderate form of punishment aimed at keeping the individual in his or her social environment, EM in Brazil is, on the contrary, an intensification of control, pushing the bearer into such a Kafkaesque situation that some may even prefer to be sent back to prison.



These are just some of the gems in this book – which will surely set a milestone – and I leave it to the reader to realize the price of becoming, in accordance with Ricardo Campello’s apt formulation, “one’s own jailer.”

Centre National de la Recherche Scientifique  
Paris, France

René Lévy

# Foreword: The Labyrinth Beyond the Bars

“ (...) What counts is that we are at the beginning of something. In the *prison system*: the attempt to find penalties of “substitution,” at least for petty crimes, and the use of an electronic collar, that force the convicted person to stay at home during certain hours. (...) Gilles Deleuze, *Postscript on the Societies of Control*<sup>1</sup>

Electronic monitoring (EM) of people convicted or prosecuted by the justice system has been discussed and implemented as part of contemporary criminal policies in several countries. It consists in the use of transmitter equipment, attached to the bodies of those under control, which enables monitoring, in an open environment, the positioning of these individuals, by means of radiofrequency or satellite tracking technologies. Doctrinal issues are often discussed regarding the use of EM in the field of crime control, its effects in terms of the dissemination of a certain culture of control nowadays, its articulation with concrete dynamics of contemporary punishment practices, such as the increase in incarceration rates, among many other aspects. In Brazil, electronic surveillance in the domain of criminal justice was made possible by the approval, in 2010, of Federal Law 12,258.

In his investigation of EM in Brazil, now published as a book, Ricardo Campello does not lose sight of these multiple issues, but rather develops an original sociological look at the use of this device, at the same time sociotechnical and political, a new metamorphosis in punitive methods in the contemporary world. Michel Foucault provides a notion that helps to understand Campello’s peculiar approach to EM: the *dispositif*. Especially in the so-called genealogical moment of his trajectory, Foucault multiplies the characterizations based on this term: power dispositifs, disciplinary dispositifs, knowledge dispositifs, sexuality dispositifs, etc. And a set of descriptive elements are organized through it: it is about describing the network of relations established among heterogeneous elements – discourses, institutions, architectural proposals, laws, administrative regulations, philosophical, scientific, moral statements, etc. – which are defined on the basis of a specific genesis and with connections of various natures, as they seek to respond to certain historical

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<sup>1</sup> Deleuze, G. “Postscript on the Societies of Control,” *October* 59 (Winter, 1992), pp. 3–7, p. 7 (first published in *l’Autre journal* 1 May 1990).

challenges, but perpetually reconfigured in strategic terms.<sup>2</sup> Approaching EM as a *dispositif* thus implies pursuing this complex, contextualized description, but which, at the same time, reveals patterns of connections and developments in a variety of social power relations.

In view of this analytical intuition, the reader is invited to keep track of the multiple social dimensions affected by the EM policy, whether in terms of the discussion and implementation of the legislation that lends legal and institutional support to the new technology; or in terms of the growth of a market for surveillance and security services, in which EM is included; or in terms of the way in which the bureaucratic monitoring apparatuses work in different regions of the country, and the effects they have on the individuals being monitored and their interactions with other people in everyday life.

Thus, throughout the chapters of the book, different dimensions of the EM *dispositif* are dissected and the reader will be able to follow in detail, thanks to the author's creativity in employing several research methodologies – documentary analysis, direct observation, interviews, quantitative data regarding monitored individuals across the country, among others – how the “layers” are arranged and projected in directions that alternately converge and diverge. The perverse effects and damages caused by the use of this technology are also described, and they do not seem to be negligible.

The path leading to Federal Law No. 12,258/10, authorizing the EM of convicts in Brazil, is retraced, along with other aspects of the implementation of such a policy, which is gradually being applied to thousands of people in the country. The first paradox is already evident in this discussion, as, while the new law was being debated, an emphasis was placed on the “decarceration potential” of the policy, which did not exactly come true, as the expansion of EM programs in subsequent years did not result in a drop in incarceration rates. Thus, the suspicion raised by the study is that EM is being applied in the country as a complementary element to imprisonment, not to curb, but to expand and intensify penal control.

It is a given that, by putting into operation the machinery of remote surveillance, EM mobilizes a network of justice bureaucrats, market agents, technical professionals, and prison system operators in the country. Campello keeps track of the artifacts, discourses, and actors in different Brazilian states: São Paulo, Rio de Janeiro, Ceará, and Maranhão. His observation and analysis uncovers the inadequacies, the flaws, and the course corrections that, in fact, make possible the reproduction of the artifact as a whole. The curious observation made in Fortaleza, in the state of Ceará, of a case in which a monitored person's anklet signal was blocked, in which legal operators, unfamiliar with the technologies employed, remain hostage to computer

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<sup>2</sup>Cf. Foucault, M. *The History of Sexuality vol. 1: An Introduction*. London: Allen Lane, 1979; Castro, E. *Vocabulário de Foucault*. Belo Horizonte: Autêntica, 2009.

technicians' explanations in order to decipher what had happened, is one of the many examples found throughout the text of the complexity of the device, as well as its opacities.

In turn, the size of the market for surveillance technologies, which is growing in Brazil, is also explored. With the rising incarceration rate, punishment is becoming an increasingly profitable business, and the advance of EM instruments and programs is likely to excite politicians and security entrepreneurs interested in the profit opportunities that this new dimension of the *dispositif* will generate in the country. As the author states, a new "window of opportunity" opens and the local market will be able to supply sophisticated weapons for the declared war against crime and for the maintenance of order, inside and outside prisons; a war that everyone knows is causing an infinite number of deaths in Brazilian daily life.

On the other hand, the gigantic bureaucracy of criminal justice seeks to dominate the technological shift stimulated by the use of electronic anklets, but not without mishaps, as exemplified in the aforementioned scene of signal blocking observed in the state of Ceará's EM control room. the legislative regulation and the legal operators' actions notwithstanding, the technological operation of the tracking systems emerges as another "black box," with its own semantics and technical intricacies that are unfathomable to the layman. The inversion of hierarchies, whereby technicians ultimately control aspects of the sentencing of those being monitored, is one of the paradoxes unveiled by the research.

But how do the monitored react, those who are ultimately the clientele of the device? Campello rightfully opens the study with the speech of those who are monitored, but it is fair to say that the experience of being watched pervades the entire investigation and is a kind of Ariadne's thread that, if it falls short of providing a meaning to this labyrinth of technologies, bureaucracies, and merchandise, perhaps it reveals precisely the meaninglessness of this entire dynamic. Like being in the center of the labyrinth, it is in the body of the monitored that the multiple layers of the EM device overlap and produce what is invariably the result of any punishment: suffering. It is the material effects of the electronic anklet that literally come to life: the vibration, the change in color, the heat produced by the anklet tied to the body; the perverse visibility that, in the very particular context of the so-called "world of crime" in Brazil, places the monitored individual as a target for militias or gangs; the resistance that is undeniable, but at times equally paradoxical, such as in the case of the monitored man in Rio de Janeiro who decided to build a wall around his residence to prevent the neighbors from noticing that he was wearing the anklet.

In brief, the comprehensive research undertaken, and thoroughly described here, reveals to the reader some of the multiple dimensions of this little known experience – and that in Brazil only attained visibility, with a clearly distorted perception, with the ill-fated Operation Car Wash – involving EM in the criminal justice system. Based on this, it is certainly justified to revisit the traditional questions, regarding the role of EM in criminal policy, its effects on incarceration, and even as one of the

options available in the context of punitive practices and institutions in contemporary times. But it is hardly possible to remain indifferent to the suffering of those who undergo such policies as the subjects being monitored, as this suffering is not merely a remnant, a residue, or a leftover of certain abstract measures but rather what is deliberately pursued throughout the labyrinth.

University of São Paulo  
São Paulo, SP, Brazil

Marcos César Alvarez

This work won the 2020 Prize for Scientific Works, Theses, and Dissertations of the *Associação Nacional de Pós-Graduação e Pesquisa em Ciências Sociais* (ANPOCS), and received an Honorable Mention in the 2020 Theses Prize of the *Coordenação de Aperfeiçoamento de Pessoal de Nível Superior* (CAPES).



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