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# Electronic tracking of undertrials on bail: benefits and challenges

What are the benefits of electronic tracking of undertrials on bail? What are the lessons from other countries?

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When the courts act in their own contempt

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6 min read



## LAW &amp; POLICY



As many as 75.8% of prisoners in India are undertrials who are yet to be convicted of an offence. (Picture for representation)

On November 5, President Droupadi Murmu released a report titled “Prisons in India: Mapping Prison Manuals and Measures for Reformation and Decongestion”. The report, authored by the Supreme Court’s Centre for Research and Planning, suggests a variety of measures to address overcrowding in prisons, including a section titled “Electronic Tracking of Prisoners”.

Though the court itself in July held in strong terms that **bail conditions that allow the police to track the movement** of an accused would violate the right to privacy, the report and other authorities, including the Law Commission of India and the Parliamentary Standing Committee on Home Affairs, suggest that tracking would be beneficial with the right guardrails.

What are the benefits to electronic tracking, and why?

**A cost-effective alternative to incarceration**

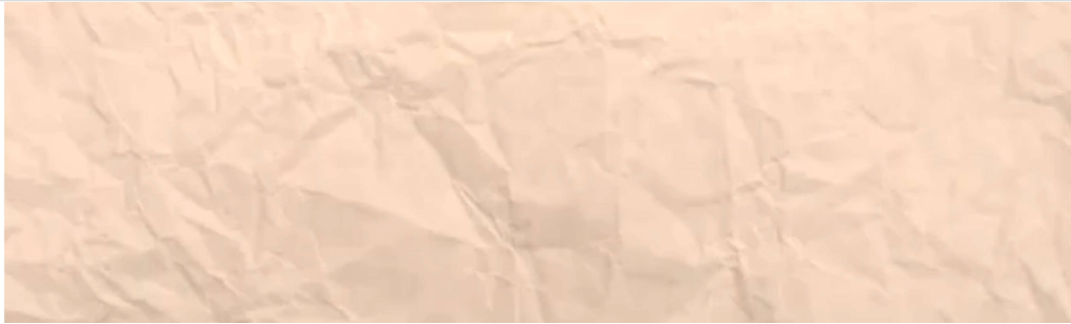
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According to statistics by the National Crime Records Bureau (NCRB), prisons in India suffer from significant overpopulation with a 131.4% occupancy rate as of December 2022 — 5,73,220 inmates in comparison to a total capacity of 4,36,266 in jails across India. In addition, 75.8% of prisoners in India are undertrials. The Prisons in India report suggests that electronic monitoring “could prove to be a cost-effective method to decongest jails in India”.

The report cites statistics from [Odisha](#) where the state government spends roughly Rs 1 lakh annually on a single undertrial prisoner. A tracker “would cost around Rs 10,000 to 15,000”, the report says. In 2023, a Parliamentary Standing Committee on Home Affairs submitted a report titled “Prisons – Conditions, Infrastructure and Reforms”, which spoke about the potential benefits of electronic tracking using ankle or bracelet trackers.

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It states, “Through the use of these kinds of trackers, the human resources staff involved in keeping track of prisoners can be reduced and it could be a cost-effective method to monitor a prisoner without the involvement of large administrative staff.”

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### **Lessons from the US: the drawbacks of electronic monitoring**

However, some studies claim that electronic monitoring simply amounts to incarceration by a different name, often referred to as ‘e-carceration’. In the United States of America, where electronic monitoring and movement restrictions for

CIVIL LIBERTIES UNION (ACLU) published a report titled "Rethinking Electronic Monitoring: A Harm Reduction Guide".

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**A:** Pluto

**C:** Mercury

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In the report, they claim that “EM serves as an extension of the carceral crisis, expanding the punitive power of jails and prisons beyond their traditional physical walls as a system of “e-carceration”...overuse of government surveillance can create oppressive, criminalizing environments, especially for communities of color”.

A broad comparison can be drawn with India where, like communities of colour in the US, people from Scheduled Castes, Scheduled Tribes and Other Backward Classes backgrounds are overrepresented in prisons. Recent data shows that 68.4% of prisoners belong to SC, ST and OBC categories.

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There is also the question of who will bear the costs when it comes to electronic monitoring. The Supreme Court’s report suggests that it would be the government, but in jurisdictions such as the US (which has been cited as an example in the court’s report), the costs are often borne by the individual being monitored and

There is also the possibility of stigma that comes with visible ankle or bracelet devices, a concern acknowledged by the Prisons in India report, stating “Some individuals may resist wearing tracking devices due to concerns about social stigma or a perception of invasive surveillance”.

The ACLU in a piece titled “Three People Share How Ankle Monitoring Devices Fail, Harm, and Stigmatize” note that “the stigma, social isolation, and stress that results from being monitored exacerbates depression and anxiety for wearers”.

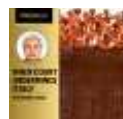
### Privacy and electronic tracking

On July 8, a Bench of Justices Abhay S Oka and Ujjal Bhuyan struck down an unusual bail condition imposed by the Delhi High Court on two foreign nationals booked for offences under the Narcotic Drugs and Psychotropic Substances Act, 1985. The Delhi HC granted bail to the accused persons and ordered that they must “drop a PIN on the [google](#) map to ensure that their location is available to the Investigation Officer of the case”.

The court held that such a condition would violate the fundamental right to privacy under Article 21, stating that “The investigating agency cannot be permitted to continuously peep into the private life of the accused enlarged on bail”. The court then deleted this bail condition.

The Parliamentary Standing Committee in 2023, while advocating for the cost benefits of electronic monitoring, noted that such measures must only be taken with the consent of the inmate in question. “At the same time, it is essential that to avoid any kind of human rights violation tracking devices should be used on voluntary basis after procuring the consent of the inmate”.

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