



Pegasus Case

Why in News

Recently, the [Supreme Court \(SC\)](#) has appointed an expert committee [to be overseen by a retired apex court judge (**Justice Raveendran Committee**) in the [Pegasus case](#).

- Under the case, the Union Government is alleged to have used **spyware for surveillance on private citizens**.

Key Points

- **Supreme Court Judgment:**

- **Judicial Principle Against Bias:**

- The court rejected the government's plea to set up its own probe.
- The court asserted that the government appointment of probe would **violate the settled judicial principle against bias**, i.e., that **'justice must not only be done, but also be seen to be done',**

- **Formation of Expert Committee:**

- On account of the government's inaction to file a detailed response to the allegations made by the petitioners, the Court has constituted a panel of experts under former **SC judge Justice R V Raveendran**.

- **Terms of Recommendation:**

- The court has also asked the Raveendran committee **to make recommendations on a legal and policy framework to protect citizens against surveillance and enhance cyber security** of the country.
- The court has set seven terms of reference for the committee, which are essentially facts that need to be ascertained to decide the issue. [//](#)

— TO MAKE RECOMMENDATIONS —

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| <p>1 Regarding enactment or amendment of law and procedures on surveillance, and to secure improved right to privacy.</p> <p>2 Regarding enhancing and improving cyber security of nation and its assets.</p> <p>3 To ensure prevention of invasion of right to privacy, other than lawfully, by State and/or non-State entities using such spyware.</p> <p>4 Regarding establishment of a mechanism to flag suspicion of</p> | <p>illegal surveillance of devices.</p> <p>5 Regarding setting up a well-equipped independent premier agency to investigate cyber security vulnerabilities and cybertattacks, and assess cybertattack threats.</p> <p>6 Regarding any ad hoc arrangement for protection of citizen's rights until Parliament is able to fill the lacunae.</p> <p>7 On any ancillary matter the Committee may deem fit and proper.</p> |
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▪ **Issues Addressed by the SC:**

◦ **Right to Privacy:**

- The court reiterated that **right to privacy** is as **sacrosanct as human existence** and is **inalienable to human dignity and autonomy**.

- The **Right to Privacy** was held as a part of **fundamental rights** by the Supreme Court in **K S Puttaswamy case, 2017.**

- Any surveillance or snooping done on an individual by the state or any outside agency is an **infringement of that person's right to privacy**.

◦ **Surveillance on Free Speech:**

- The Court has drawn a **link between surveillance and self-censorship**.

- The knowledge that one is under the threat of being spied on leads to **self-censorship** and **potential chilling effect**.

- The **chilling effect surveillance** can produce is an assault on the vital **public-watchdog role of the press**, which may undermine the ability of the press to provide accurate and reliable information (Free Speech).

- It further held that, an important and necessary corollary of such a right is to ensure the **protection of sources of information**.

◦ **National Security as a Ground to Block Citizen's Rights:**

- The Court has ruled that the state does not get a **“free pass every time the spectre of ‘national security’ is raised”**.

- This also means **“no omnibus prohibition can be called for against judicial review”** if the matter impinges on national security.

- Hence, any violation of that right by the state, even in national interest, has to follow **procedures established by the law**.

- Further, the order is a strong **rebuttal of the government's specious and self-serving use of national security** as a ground to criminalise the forms of dissent.

Way Forward

- **Role of Judiciary:** The order is a welcome and an emphatic reassertion of the **SC's role and responsibilities** as the **custodian of individual rights** enshrined in the Constitution.

- The letter and spirit of the court's order will be tested by how the Justice Raveendran panel addresses them.

- **Role of Legislature:** There is a need to expedite the enactment of **Personal Data Protection Bill 2019.**

- **Role of Executive:** Further, It is time for the executive to stop arbitrary use of power, if any.

Source: IE

