



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

## ▪ 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**

