



Data Interception by Government

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Recently the government has authorised 10 **intelligence and investigating agencies to intercept, monitor and decrypt "any information"** generated, transmitted, received or stored in "any computer".

- The 10 agencies include **Intelligence Bureau, Narcotics Control Bureau, Enforcement Directorate, Central Board of Direct Taxes, Directorate of Revenue Intelligence, Central Bureau of Investigation, National Investigation Agency, Cabinet Secretariat (RAW), Directorate of Signal Intelligence** (For service areas of Jammu & Kashmir, North-East and Assam only), and **Commissioner of Police, Delhi**.
- Any subscriber or service provider or any person in charge of any computer resource is bound to extend all facilities and technical assistance to these agencies.

Legitimacy of the Notification

- **Provision for interception of information** from computer resources exists since 2000. **Section 69(1) of the Information Technology Act, 2000** allowed this in the interest of the **country's sovereignty and integrity, security of the state**, friendly relations with foreign states, or public order or for preventing incitement to the commission of any cognizable offence.
- **Section 69 was amended in 2008** to enable the Centre and the State governments to **"intercept, monitor or decrypt" any information** transmitted through, received or stored in a computer.
- Each case of interception, monitoring, decryption is to be approved by the competent authority i.e. **Union Home secretary**. These powers are also available to the competent authority in the State governments as per **IT (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules 2009**.
- All such cases of interception or monitoring or decryption are to be placed before the **review committee headed by Cabinet Secretary**, which shall meet at least once in two months to review such cases. In case of **State governments**, such cases are reviewed by a **committee headed by the Chief Secretary concerned**.

- The notification does not confer any new powers and is **analogous to the authorisation issued under the Telegraph Act 1885 which allowed interception of phone calls.**
- Every individual case will continue to require prior approval of the Union Home Ministry or the State government. The Home Ministry has not delegated its power to any law enforcement or security agency.

Criticism

- The Government notification giving a **blanket approval to electronic surveillance is a direct assault on civil liberties and personal freedom of citizens.** It may amount to creation of a **'surveillance state'**.
- It is seen as a **challenge to the 2017 K.S. Puttaswamy (privacy) judgment** of the Supreme Court, which directed the government to protect informational privacy of every individual.

Conclusion

The Government should **strike a balance between national security and individual privacy** as in K. S puttaswamy judgment, the Supreme Court had asked the government to always carefully and sensitively balance individual privacy and the legitimate concerns of the state, even if national security was at stake.