

Centre for Culture, Media & Governance

Jamia Millia Islamia

New Delhi



CCMG Invited Lecture on

UNDERSTANDING PRIVACY AND SURVEILLANCE IN INDIA

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Abstract

While privacy seems intuitive to most people, its legal codification and protection is complex. This is because varying expectations of privacy exist in different social contexts demanding different forms and degrees of protection. In India, an unambiguous and enforceable constitutional right to privacy does not exist. The Supreme Court of India has, intermittently and unconvincingly, recognised a limited right to privacy in certain situations. Recent debates on privacy focus primarily on two areas: surveillance, and data protection. The interception of communications – phone calls, emails, and letters, – which is a type of surveillance, is statutorily regulated in India in an uneven way. A colonial law permits and regulates wiretaps in India. A derivative law governs emails and electronic communications. Both these laws suffer serious shortcomings. Indian law permits executive authorisations – by bureaucrats – of wiretaps without an independent audit and oversight mechanism. No legal provisions exist to redress improper wiretaps or information leaks – the Radia tapes controversy illustrates this. These lacunae remain unaddressed even as large-scale technoutopian projects, such as the Central Monitoring System, move forward. However, the recent governmental push for privacy law does not stem from surveillance concerns but from international commerce in personal data. There is also a growing domestic constituency that is alarmed by the state's collection of personal data without regulatory safeguards.

About the Speaker

Bhairav Acharya is a constitutional lawyer in India who joined the Bar in 2004 after graduating from the National Law School of India University, Bangalore. From 2004-2009, he was the Deputy Director of the Public Interest Legal Support and Research Centre (PILSARC), an organisation established to provide institutional legal support and credible research to popular movements, and to ideas and communities marginalised by law. He headed a UNHCR project to draft a refugee protection law for India and is a member of the NHRC's National Experts Group on Refugee Law. He litigated – mostly constitutional law – in the chambers of a senior counsel in the Supreme Court of India, where he became especially interested in free speech law. From 2009-2010, he advised a leading Indian multinational information technology major on privacy law and data protection. At present, he independently advises the Centre for Internet and Society, Bangalore, on privacy law, and is drafting a proposed privacy statute to regulate data protection and surveillance in India to provide a participatory and consensus-based legal submission to the Indian government.

Event Details

Venue: CCMG Network Governance Lab,

Date: Thursday, 28 August, 2014

Time: 11:30 am