

## *Privacy Rights In India In The Information Age*



*By*  
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We have no Dedicated Privacy Laws in India and Data Protection Laws in India. In fact, when it comes to respecting Privacy of Indian Citizens, Government of India tries its level best to avoid the same.

For instance, India has launched Projects like [Aadhar](#), [National Intelligence Grid \(NATGRID\)](#), [Crime and Criminal Tracking Network and Systems \(CCTNS\)](#), [National Counter Terrorism Centre \(NCTC\)](#), [Central Monitoring System \(CMS\)](#), [Centre for Communication Security Research and Monitoring \(CCSRM\)](#), [Internet Spy System Network And Traffic Analysis System \(NETRA\) of India](#), etc. None of them are governed by any Legal Framework and none of them are under [Parliamentary Scrutiny](#).

Further, India is the only country of the World where Phone Tapping and Interceptions are done without a Court Warrant and by Executive Branch of the Constitution of India. Phone Tapping in India is “[Unconstitutional](#)” and the Parliament of India has not thought it fit to enact a “Constitutionally Sound Law” for Phone Tappings and Lawful Interceptions. Even the Supreme Court’s directions in PUCL case have proved futile and presently the Court is dealing with the issue once more.

Phone Tapping in India has been in controversies for long. Whether it is Illegal Phone Tapping by Private Individuals or [Unaccountable Phone Tapping](#) by Indian Government and its Agencies, Phone Tapping in India has never been smooth.

There is a blessing in disguise in [Ratan Tata’s Petition](#) before Supreme Court of India. This is a golden chance for the Supreme Court of India to analyse the “Implementation” of its decision in the PUCL case (Phone Tapping Case). The Supreme Court must “Widen” the scope of Privacy Rights in India not only in the context of Phone Tapping but in an “Overall Manner”. The Supreme Court must formulate and lay down the widest possible “Guidelines” regarding Privacy Protection in India as it has done in the Vishaka’s Case (Guidelines against Sexual Harassment). The Supreme Court has even said that with the Technological Advancement, Privacy is virtually disappearing.

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On the front of Legal Framework as well we have no Dedicated and Constitutionally Sound [Lawful Interception Law in India](#). The Indian Telegraph Act, 1885 and other similar Laws are not in “Conformity” with the Constitution of India, especially Fundamental Rights of Indians. Even the Home Ministry of India is [considering](#) enactment of a Lawful Interception Law in India.

However, what is more surprising is the fact that the Law Enforcement Agencies and the Intelligence Agencies that indulge in Unconstitutional E-Surveillance and Phone Tapping are themselves [Governed by No Law](#). It is no surprise that the Central Bureau of India (CBI) is also not governed by any Law and it is operating in India [Without any Law](#). It is only now that the [Central Bureau of investigation act 2010](#) was drafted. Till now it is a mere draft and has not become an enforceable law. Even the [Constitutional Validity](#) of the National Investigation Agency Act 2008 is doubtful. Even [the Draft Intelligence Services \(Powers and Regulations\) Bill, 2011](#) has been recently circulated in the Parliament of India. India must urgently formulate E-Surveillance Policy so that the E-Surveillance conducted by Intelligence Agencies and Law Enforcement Agencies of India can be regulated.

Surprisingly, we have no [E-Surveillance Policy in India](#) and Legal Framework in this regard. This is despite the fact that many Indian Projects are so E-Surveillance Oriented that they cannot pass the scrutiny provisions of Indian Constitution. Of all these E-Surveillance Projects Aadhar Project of India or Unique Identification Project of India (UID Project of India) is the most “[Dangerous Project](#)” that should not be there at the very first place. It is based upon Deceit and Deception and both Indian Government and Unique Identification Authority of India (UIDAI) are [Hiding Truth](#) from Indians. There is no Legal Framework, no defined Policies and Guidelines and most importantly no Procedural and [Civil Liberty Safeguards](#).

If this was not enough the sole Cyber Law of India (Information Technology Act 2000) was amended through the Information Technology Amendment Act 2008. The IT Act 2008 made the Cyber Law of India an “Unregulated and Unaccountable” piece of E-Surveillance Legislation. It is now wide open to misuses by Indian Government and its Agencies. Further, the IT Act 2008 also violated various provisions of Indian Constitution and hence is “Unconstitutional” as well. Ideally Cyber law Of India must be [repealed](#) as soon as possible.

If Parliament of India has abdicated its duties and Indian Judiciary is watching as a moot spectator, it becomes of paramount importance for Cabinet Committee on Security (CCS), Union Cabinet and Prime Minister’s Office (PMO) to “Disallow” all such Projects till proper Civil Liberty Safeguards and Legal Frameworks are at place.

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