

The Centre for Internet and Society,
COAI and Vahura

invite you to a

SURVEILLANCE AND PRIVACY LAW ROUNDTABLE

1st September, 2014

India International Centre, Conference Room #1

40, Max Mueller Marg, Lodhi Estate, New Delhi, Delhi 110003

10:00 A.M – 4:30 P.M

RSVP to: elonnai@cis-india.org

Recent legislative developments regarding privacy law in India

In 2010, the European Union commissioned an assessment of the adequacy of Indian data protection laws in light of the transfer of personal data of European data subjects into India for processing. That assessment made adverse findings on the adequacy and preparedness of Indian privacy law to safeguard personal data. Consequently, in 2011, the Department of Personnel and Training (DoPT) proposed draft privacy legislation called the 'Right to Privacy Bill, 2011'. The DoPT Bill contained provisions for the regulation of personal data, interception of communications, visual surveillance and direct marketing. Simultaneously, the Ministry of Communications and Information Technology issued the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 to give effect to section 43A of the Information Technology Act, 2000.

The Justice Shah Group of Experts on Privacy and the National Privacy Principles

Aware of the need for privacy laws to enable economic growth, the Planning Commission constituted a Group of Experts under the chairmanship of Justice Ajit P. Shah to make specific proposals for future Indian privacy law. The Group of Experts submitted its Report to the Planning Commission in October 2012 wherein it proposed the adoption of nine National Privacy Principles. These are the principles of notice, choice and consent, collection limitation, purpose limitation, disclosure of information, security, openness, and accountability. The Report recommended the application of these principles in future privacy law.

Surveillance law in India

The cases of *Kharak Singh v. State of Uttar Pradesh* (1963) and *Gobind v. State of Madhya Pradesh* (1975) first brought the questions of permissibility and limits of surveillance to the Supreme Court for judicial review. The regime governing the interception of telecommunications is contained in section 5(2) of the Indian Telegraph Act, 1885 read with rule 419A of the Indian Telegraph Rules, 1951. The Telegraph Rules were twice amended to give effect to certain procedural safeguards laid down by the Supreme Court in *PUCJ v. Union of India* (1996). In addition, further subordinate legislation issued to fulfil the provisions of sections 69(2) and 69B(3) of the Information Technology Act permit the interception and monitoring of electronic communications to collect traffic data and to intercept, monitor, and decrypt such communications.

About these roundtable consultations

These roundtable consultations are hosted by the Centre for Internet & Society (CIS), COAI and Vahura. They are a series of national roundtables to focus on surveillance regulation and interception of communications in relation to telecom service providers, internet service providers, internet access providers, and internet-based service providers. These roundtables are designed to elicit comments on legal proposals to regulate surveillance. The text of these legal proposals has been drafted at CIS and continues to be modified to reflect the opinions and consensus at each roundtable consultation. The objective of these meetings is gain a stakeholder-based, participatory, and democratic consensus on the future of Indian surveillance and privacy law.