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The use of technology is today indispensable in anti-terror and anti-crime scenarios. However, its misuse is what bothers its critics, writes Vicky Nanjappa

In a recent article, the New York Times made some interesting observations on the increased use of cell tracking technology for locating 'specific' people, which it stated had become a powerful and widely used surveillance tool for police officials.

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Police officials swear that the best way to prevent any act of terror is with the use of technology. They point out that the best way to gather information on terror operatives is through the tracking of a mobile phone which is used many times in the run up to a strike.

India has been seeking to introduce the use of technology in crime fighting. The Department of Telecommunication, in its new telecom policy has given a lot of importance to mobile surveillance.

However, what seems to be missing are the e-surveillance guidelines.

While the telecom policy permits monitoring of cell phone locations in India, the danger as pointed out by some experts is that it could end up being like phone tapping which has often been used for purposes other than what it is intended for.

Going by the various laws, amendments and the policies, mobile phone tracking has a direct impact on the privacy of individuals. The problem is that India does not have a dedicated law on privacy.

As per the information technology amendment, the powers to intercept, decrypt and monitor cell phones has been given to the central and state governments. This, according to IT law expert Pavan Duggal, has huge loopholes because the checks and balances are not in place.

We need far more accountability and transparency when we speak of cell phone monitoring, he says.

Sources in the security establishment say that logically one needs to monitor a person who is a suspect. It is

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essential that one has to act quick and through cell phone monitoring we could keep a tab on the person's location.

The counter argument to this is that the monitoring ought not to be done to fish out information from the conversations of law-abiding citizens, as it invades into their privacy.

In the PUCL vs Union of India case, the Supreme Court had laid down some strict guidelines when it came to phone tapping. However, that was in the context of the Telegraph Act; the same law cannot be applied to cell phones as it is on the digital platform.

An IT Act legislation mandated that any act of monitoring ought to be approved by a competent authority. This meant that the home secretary had to take the case before an individual panel of members and get the action approved. However, post 26/11 the government of India thought that there was a need to buck up the process. Then came the amendment to the IT Act.

The government notified the IT Rules (procedures and safeguards for interception, monitoring and decryption of information) in 2009. As per this, the government did not need to go before the controller and it was the secretary to the ministry of home affairs who held all the powers. This in fact makes it more dangerous and the entire decision lies with one person.

This also provided an element of partiality, Duggal points out.

We need an interpretation of this by the judiciary. Ultimately, when we speak of convergence of information-audio, video, image or text we need more clarity of these norms, he adds.

Vicky Nanjappa

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