

Dear all,

Readers may recollect an earlier email alert about the absence of any transparency in the working of the National Intelligence Grid (NATGRID) in India. NATGRID has been set up to collect various databases of personal information about individuals available with public and private sector agencies and make them available to spook agencies for analysis of trends and patterns from the point of security requirements. This according to the Union Minister for Home Affairs is the first stage which will lead to the second stage when a National Counter-Terrorism Centre will be set up sometime next year. An allocation of INR 33 million was made for NATGRID in the budget for 2010-11. This year the budget is almost INR 40 million. All this money is under Non-plan expenditure category. Yet even before making its detailed project report, its powers and functions, directory of its officers, their norms of functioning and their decision making processes public, the Government of India has insulated them from the obligations of transparency under the *Right to Information Act*.

Prior to this immunisation cover, the media had briefly reported in October 2010 about a meeting which NATGRID had with top functionaries of public and private sector banks and other agencies to coax them into sharing their databases with it. I filed an RTI application with the Reserve Bank of India (RBI) seeking details of this meeting. It turns out that there were two such meetings and in one of them the bank representatives agreed to part with the databases only if there was a statutory obligation to do so. The [Information received through the RTI application](#) has names of participants at both meetings and also includes a brief extract from the minutes of one of the meetings which indicates the thinking of banks in this regard. Thankfully the RBI did not play the subterfuge of waiting for the immunisation of NATGRID before responding to me as did the Ministry of Home Affairs with my other NATGRID-related RTI applications. The Deccan Herald has published a news story on the subject, available at this link: <http://www.deccanherald.com/content/174517/banks-thwart-nig-bid-tap.html> A copy of the story is also attached.

**All of this is happening on a canvas that has two crucial designs missing:-**

**a)** a missing legal framework and independent oversight mechanisms for intelligence agencies such as R&AW, Intelligence Bureau, NTRO, Financial Intelligence Unit. NATGRID is the latest addition to this list. These other agencies and several more had been insulated from the RTI Act at the time of its enactment in 2005 itself; and

**b)** a missing legal framework for protecting the individual's right to privacy. Please note that unlike RTI which is an implied right in Article 19(1)(a) currently available only to citizens, the right to privacy is an implied right under Article 21 (the right to life and liberty) which is available to any person within the jurisdiction of the Indian State. So the right is available to a much larger set of people.

Some rules were notified in April 2011 under the *Information Technology Act*, to regulate data security matters in the private sector. They do not cover data security matters in the State sector. So there is a huge gap in the legal frameworks necessary to protect the right of the citizens against the State which is increasing its surveillance capabilities without approaching Parliament for seeking those powers. The draft Right to Privacy Bill leaked to the media seems to be far from final as it has several lacunae in it when held up against the light of international best practice standards.

**It is high time we the people asserted that our right to privacy is as much about our control over our personal data as much as it is about the State's need to have more and more information about the people it seeks to police in the name of security. It is not merely about securing data that is found on the computers of public and private sector**

and security agencies. It is also about the our right to know what data will be or has been collected about us; what uses such data will be put to; what measures have been laid down for each one of us to access our own personal data and have any inaccuracies in it corrected and to know who else will have access to such data and why.

The Department of Personnel and Training issued an approach paper on the right to privacy last year. Since then it has said very little on the subject. It is not clear which Ministry the Draft privacy Bill was leaked from. The Planning Commission is also looking at the issue of privacy. So is all of this incoherence part of a grand design or is this a typical example of how well they coordinate with each other in their work?

In order to access our previous email alerts on RTI and related issues please click on:  
[http://www.humanrightsinitiative.org/index.php?option=com\\_content&view=article&id=65&Itemid=84](http://www.humanrightsinitiative.org/index.php?option=com_content&view=article&id=65&Itemid=84)

You will find the links at the top of this web page. If you do not wish to receive these email alerts please send an email to this address indicating your refusal.

Thanks

Venkatesh Nayak

Programme Coordinator

Access to Information Programme

Commonwealth Human Rights Initiative

B-117, 1st Floor, Sarvodaya Enclave

New Delhi- 110 017

Tel: +91-11-43180215/ 43180200

Fax: +91-11-26864688

Skype: venkatesh.nayak

Website: [www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)