

BIGMUN 2024

GA 6: Legal

Research Report

Topic 3: Establishing Parameters for Surveillance by Individual governments.



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Introduction:

The government surveillance methods of various countries have come under fire as of January 2022. It's critical to remember that there are many ways that the government might monitor its population, including through mass surveillance programs, communication monitoring, and the application of cutting-edge technology. Systems such as the Israeli Pegasus spyware or the Chinese social credit system are becoming more and more common and being used more often and with less hesitation by various governments.

Definition of Key Terms:

- **Mass Surveillance:** The pervasive, indiscriminate observation of a sizable populace or cohort. Massive data gathering, including conversations, online activity, and other personal information, is frequently a part of mass surveillance.
- **Warrantless Surveillance:** Monitoring carried out without a court's permission or a warrant. Legal and ethical discussions on how to strike a balance between personal privacy and national security frequently center on warrantless surveillance.
- **Surveillance:** For a variety of reasons, such as public safety, law enforcement, and national security, governments, intelligence services, or other organizations may engage in surveillance, which means tracking the data, actions and life of an individual and is often not properly justified.

Background Information:

Mass surveillance of the population can trace itself back to the First World War, where governments would implement measures such as the US Committee on Public Information to prevent infiltration by foreign spies as well as to foresee any unrest stemming from the people themselves. With the improvement of technology and the tensions of the Cold War agencies such as the KGB, Stasi, CIA, NSA etc. expanded and improved upon already existing methods of surveillance. Even today, despite the end of the Cold War, governments have not ceased to conduct unlawful surveillance of their population as has come to light in many cases, most notably leaked by Edward Snowden in 2013. With the recent developments in neural networks and AI it is only a matter of time before they will be implemented more commonly for surveillance purposes.

Major Countries and Organizations Involved:

- **United States of America:** The country has come under intense criticism, especially since the National Security Agency (NSA) monitoring operations were made public by Edward Snowden in 2013. The documents revealed that the US not only conducted surveillance of its own nation but also abroad extensively.
- **China:** The country has come under fire for its widespread use of surveillance technologies, which it uses for both internal government and citizen monitoring. The Chinese government employs a number of monitoring techniques, such as facial recognition software, and has put in place a social credit system which uses data gained from surveillance to determine things such as job availability, loan eligibility and to detect dissent.
- **United Kingdom:** The country has come under fire for its extensive monitoring initiatives, which include its intelligence services' operations. Two controversial topics are the usage of CCTV cameras in public areas.
- **Russian Federation:** There have been allegations of widespread surveillance activities, including electronic communication monitoring, by the Russian government. Concerns have been raised about laws forcing internet service providers to preserve customer data and provide security agencies with access. The Russian Federation is also notorious for making widespread use of cyberterrorism and hacking, such as the allegations of Russian bots influencing the 2016 US presidential election.
- **Israel:** Back in 2016 an Israeli cyber-arms company developed the now infamous Pegasus spyware, which can be covertly installed on phones running IOS or Android in order to track all activity on the device. It has been allegedly used by, for example, the former government of Poland under the PiS party in spying on several opposition politicians.

- **United Nations Human Rights Office of the High Commissioner (OHCHR):** The UN High Commissioner for Human Rights is the principal Human Rights official of the UN and is responsible for advising the Secretary General on human rights as well as ensuring that human rights projects and initiatives are properly carried out. Several of the fundamental human rights directly or implicitly forbid surveillance, and as such it falls under the High Commissioners jurisdiction.

Relevant United Nations Resolutions

- **Universal Declaration of Human Rights:** The right to privacy is enshrined in Article 12 of the Declaration.
- **The Right to Privacy in the Digital Age, UNHRC:** In 2015 the Human Rights Council recognized the importance of privacy in the digital age and created the office of the Special Rapporteur on the Right to Privacy

Previous Attempts to Solve the Issue

As mentioned above in 2015 the Human Rights Council appointed a Special Rapporteur on the right to privacy. This office is responsible for investigating and documenting matters pertaining to the worldwide right to privacy. The Rapporteur advises on surveillance laws so that they do not violate international law and reviews state policies that touch on the matter, however recommendations of the Rapporteur are not legally binding. Occasionally United Nations committees will pass resolutions on the issue such as the Right to Privacy in the Digital Age, however none of these resolutions have become legally binding.

Possible Solutions

The main issue is that the only legally binding treaty which touches on surveillance is the Declaration of Human Rights, there is no treaty specifically dealing with surveillance as such. However only the Security Council has the power to make UN resolutions binding to all member states. Therefore building a groundwork upon which such a treaty could be developed in the future would be the most rational way of further developing international regulations around surveillance.

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