

PROBING PEGASUS: THE HINDU EDITORIAL ON THE BENGAL GOVERNMENT ORDERING INQUIRY INTO SNOOPING ROW

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The [institution of a judicial probe by the West Bengal government](#) into allegations of surveillance using advanced spyware on potential Indian targets marks a significant political and legal pushback against the Union [government's attempts to deny](#) the global media revelations and diminish the potent threat such practices pose to democracy. Given Chief Minister Mamata Banerjee's penchant for the dramatic and her endless run-ins with the Centre, it may be easy to dismiss the act of a State government ordering an inquiry into what could be a large-scale intelligence-gathering programme of a state actor as mere political chutzpah. However, in the context of the Centre and the ruling BJP's aggressive refusal to cede any ground on the growing demand for a credible probe into the use and misuse of Pegasus spyware, the West Bengal inquiry acquires both legal and political salience. The Union government claims that illegal surveillance is not possible in India and has not specifically admitted or denied the use of [Pegasus](#), the spyware supplied by Israel's [NSO Group](#). Ms. Banerjee has rightly invoked the possible grave implications for democracy, public order, the independence of the judiciary and the autonomy of legislators while ordering an inquiry under the Commissions of Inquiry Act. Media reports suggest that those likely targeted included [Prashant Kishor](#), the Trinamool Congress's strategist during the recent Assembly polls, and Abhishek Banerjee, Ms. Banerjee's nephew. Regardless of which agency or government was behind it, there are grounds to believe that part of the surveillance covered the State government's territory, bringing into play its legitimate right to order an investigation.

It is entirely a different matter that the two-member Commission, comprising Justice Madan B. Lokur, former judge of the Supreme Court, and Justice Jyotirmay Bhattacharya, former Chief Justice of the Calcutta High Court, may face severe constraints. For one thing, only some of the potential targets may testify and seek the Commission's aid in getting their phones forensically examined for evidence of infection by Pegasus. Central agencies may not readily offer their cooperation. The Intelligence Bureau may not be permitted to join the probe, and even if it did, it may claim privilege over documents and records relating to its legitimate interception orders, citing national security and operational sensitivity. In a country where there is no parliamentary oversight over its intelligence agencies, it is unclear how far these agencies and its personnel would cooperate with a probe ordered by a State government. There have been instances — the Jain and Verma Commissions come to mind — of intelligence files being made available to judicial panels. Therefore, it will be both desirable and appropriate if the Centre itself ordered a wide-ranging judicial inquiry into the Pegasus scandal so that the nation has an opportunity to get at the truth.

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