

*PRIVACY MATTERS*  
CONFERENCE REPORT

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January 23 . NUJS . Kolkata

X-011 REGENCY PARK 2, DLF CITY PHASE IV  
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BANGALORE 560 071, INDIA

# PRIVACY MATTERS

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## CONFERENCE SUMMARY

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On the 23rd of January civil society, politicians, lawyers, and students gathered at NUJS law school in Kolkata for “Privacy Matters”- a public conference to discuss elements of the privacy legislation that has been proposed to parliament, and the UID Bill and project. The conference focused on the tensions between privacy and society that exist in India today, and was a space for opinion sharing and discussion. Conference attendees included, among others, AIMSEVEN, Centre for Total Development, The Young Explorers Institute for Social Service, Sonarpur Spiritual Foundation, RNL Force, and Sri. Manoj Bhattacharya (MP) from RSP, and Sri Nilotpal Basu (MP) from CPI.

*“Privacy India’s objectives are to raise awareness, spark civil action, and promote democratic dialogue around privacy challenges and violations in India. One of Privacy India’s goals is to build consensus towards the promulgation of a comprehensive privacy legislation in India through consultations with the public, legislators and the legal and academic community” – Rajan Gandhi, Privacy India*

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**KEYNOTE**

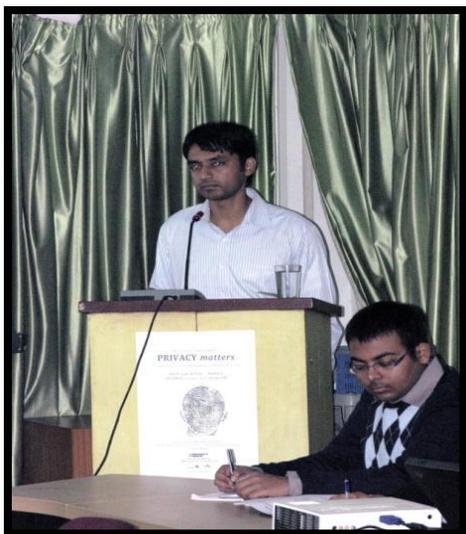
**SUDHIR KRISHNASWAMY, PROFESSOR OF LAW AND GOVERNANCE**

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In his keynote speech, Dr. Krishnaswamy outlined the situation of privacy in India. Currently the right to privacy has been read into section 19 and 21 of the constitution through case law, which has defined privacy – among other things – as a the right to personal autonomy, the right against unreasonable search and seizure, and as a fundamental right that is critical to the person, but does not supersede public or national interest. Furthermore, Dr. Krishnaswamy described the philosophical groundings of privacy as being in the right to dignity, the right to autonomy, and the misappropriation of information. Dr. Krishnaswamy also raised many questions concerning privacy in India including:



1. What does privacy mean to India?
2. Is privacy linked to an individuals dignity? Their honor?
3. Is privacy in India an issue of the individual, or an issue of the family and the community?



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**QUESTIONS AROUND PRIVACY**

**SESSION I OF THE CONFERENCE FOCUSED  
ON PRESENTING QUESTIONS AND  
CHALLENGES THAT PRIVACY IN INDIA  
FACES**

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Prashant Iyengar, head researcher for Privacy India, introduced to the participants challenges that must be considered when shaping a privacy legislation for India, including:

**1. Determining what type of privacy framework would be appropriate in India:**

Many Indian legislations already have privacy protections embedded in them, thus it is important to create a framework that bolsters these protections, rather than creating a framework that ignores or overrides them.

**2. Determining the culture of privacy in India:**

To what extent is the investigation of whether Indian culture values an absolute right to privacy dispositive of the desirability of a statutory right to privacy? How do we ensure that the cultural difference argument is not used to deny privacy rights to individuals.

**3. Balancing the conflict between transparency and privacy:**

The transparency brought by the RTI is an important right to uphold and balance. When crafting a privacy legislation it is important that a privacy law does not turn into a mechanism for obstructing transparency.

**4. Determining what exceptions to privacy will be allowed for in the privacy legislation:**

There will always be circumstances to when exceptions of an individuals privacy will be made, for example, national security. When forming a privacy legislation it will be important to determine what these exceptions are, and create a regulated way in which they will be applied.

Elonnai Hickok, a policy analyst for Privacy India, spoke specifically on wiretapping and the Nira Radia tapes. In her presentation she first outlined other countries definitions of privacy which include: the right to be left alone, the protection from unauthorized searches, and the right to control information about oneself through consent. Using the case study of Nira Radia and Ratan Tata she spoke about the rising concern of wiretapping in the country as being indicative of a social change and relationship of the state and government. Ms. Hickok also raised questions concerning:



1. Should privacy be made inversely proportional to public figures?
2. In a privacy legislation, should public interest always supercede privacy?
3. Can a privacy legislation create a compromise between the states need for surveillance in the name of national security and an individual's privacy

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## PRIVACY AND THE UID

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### SESSION II OF THE CONFERENCE FOCUSED ON THE UID BILL AND PRIVACY

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Sri Manoj Bhattacharya (MP) from RSP voiced his concerns of the UID project, and emphasized that by giving an individual a number that acts as their fundamental identity, which they use to function in society, the government in fact is eroding an individuals actual identity, and that is an invasions of privacy.



Sri Nilotpal Basu (MP) from CPI spoke out strongly against the UID, voicing that his greatest concern with the UID is that it will be a way for corporate bodies to target individuals as consumers, and that a privacy legislation could be used as a way for corporate bodies to hide from the public eye.



Ms. Amba Kak, a student at NUJS, presented on the privacy concerns of the UID project. A few privacy concern raised by Ms. Kak include:

1. Authentication
2. Convergence, proofing, and tracking
3. The disclosure of information found in clause 33.

Mr. Sai Vinod, a student at NUJS, compared and contrasted identity schemes from other countries with the UID identity scheme. A few similarities found amongst all schemes were:

1. The collection of data
2. The processing of data
3. The storing of data.



Mr. Deva Prasad from the National Law School of Bangalore presented on the constitutional elements of the UID scheme. He examined loopholes in the UID Bill, and argued that the UID Bill is in need of specific privacy regulations, and India should have a statutory representation of the right to privacy.

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## CONCLUSION

### THE CONCLUDING SESSION WAS A TIME FOR QUESTIONS AND OPINION SHARING

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In the concluding session, many participants shared what issues they felt needed to be addressed by a privacy legislation, and further questions that need to be explored including:

1. Personal privacy vs. informational privacy
2. Privacy rights and the media
3. Privacy and the right to information
4. Privacy rights of minorities
5. Privacy rights of the government