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CAMPAIGN FOR JUDICIAL ACCOUNTABILITY AND REFORMS

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CJAR condemns phone hacking aimed at attacking independence of the judiciary and demands SC monitored SIT into allegations

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The Campaign for Judicial Accountability and Reforms expresses deep concern at the revelation that the Pegasus software owned by Israel's NSO group, was used to hack into the phones of Indian citizens, apparently at the behest of the Union government. Such large-scale intrusive surveillance into the personal phones of political leaders, journalists, activists is a flagrant violation of the right to privacy as upheld by the Hon'ble Supreme Court and an affront on the civil liberties of citizens. That the Pegasus software was inserted in some of the target phones has been established by cyber forensic analysis of some of these phones by internationally reputed labs. That this was done at the behest of the Indian government is evident from the fact that NSO sells this software only to "vetted governments". Also, the budget of the National Security Council Secretariat (under the NSA) was suddenly increased at the relevant time from 33 crores in 2016-17 to 333 crores in 2017-18 and 812 crores in 2018-19, under a head of "cyber security R&D". Of especially grave seriousness are the allegations that the phone of a sitting judge of the Supreme Court and the family members of the woman staffer of the Supreme Court who had accused former Chief Justice of India, Ranjan Gogoi of sexual harassment, were targets of hacking by the NSO group. These allegations, made by respected media organizations on the basis of worldwide collaborative investigative efforts, need to be taken with utmost seriousness, not only for the patent illegality of such actions, but the potential threat to the independence of the judiciary that they represent.

While the name of a sitting judge of the Supreme Court whose phones were the target of hacks has not been made public yet, the very fact that phones belonging to judges were targets of hacks reportedly by the central government, is itself sufficiently serious to merit investigation and apportion responsibility. Phone hacking via Pegasus could have been an attempt to collect personal information of judges without their knowledge, or like with the Bhima Koregaon activists and lawyers, an attempt at implanting compromising information on the phones of the judges, either of which might have been attempted with a view to blackmail such judges.

This would per se be an attack on the independence of the judiciary that requires a response from the highest court in order to get to the truth of the matter and address the public's concerns about such illegal attempts to compromise its independence.

The other alarming revelation is that the woman staffer who accused former Chief Justice of India, Ranjan Gogoi of sexual harassment, and phone numbers belonging to her family members were also targets of phone hacking by the NSO Group at the behest of the Union Government. As per

the investigative reports by media, 11 phone numbers belonging to the woman and her family were added to the list for potential deployment of Pegasus after she sent an affidavit detailing her complaint of sexual harassment and victimisation to all the judges of the Supreme Court. A detailed and independent probe is required to investigate why a software reportedly made available to only “vetted governments” for national security issues was used against this woman and to also probe the possibility of an improper collusion between the executive and a judge, where the executive has attempted to intimidate and browbeat the victims of Justice Gogoi’s abuse of power. The victimisation of the woman by the police, the many questionably judicial orders passed by benches headed by Justice Gogoi favourable to the Union Government, and Justice Gogoi’s nomination to the Rajya Sabha soon after his retirement raises serious questions about such collusion.

With the Union Government continuing to obfuscate the issue in the public domain, not allowing a debate in Parliament and showing no interest in investigating the criminal activities outlined in the revelations concerning the NSO Group, we repose our faith in the judiciary to help bring out the facts and fix responsibility for the illegal actions of phone hacking.

For these reasons and to protect the independence of the judiciary, we call upon the Supreme Court of India to:

1. Set up a Special Investigation Team composed of independent and credible investigators, headed by a retired Supreme Court judge to inquire into the allegations of phone hacking by the NSO group, allegedly at the Union Government’s behest.
 2. Inquire into who authorised the use of Pegasus on phone numbers belonging to Supreme Court judges and those belonging to the woman staffer (and her family), who had complained of sexual harassment by the then CJI Gogoi.
 3. Inquire into whether there was improper collusion between former Chief Justice of India, Ranjan Gogoi and the Union Executive in respect of the sexual harassment allegations leveled against him.
 4. Make public the report of the Justice AK Patnaik committee which looked into the allegations of “conspiracy” in relation to the sexual harassment case against Justice Gogoi.
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