Leaked Data Shows Surveillance Net in Elgar Parishad Case May Have Crossed a Line

The families of activists figure on a leaked list of numbers that included some selected for surveillance by a client of Israel’s NSO Group.
The 16 arrested in connection with the Elgar Parishad case. One of them, Father Stan Swamy, passed away in custody. Photo: The Wire.

Sukanya Shantha
Mumbai: In mid-2017, Hany Babu Musaliyarveettil Tharayil, an associate professor from Delhi University (DU), took a family trip to Kollam in Kerala.

His wife, Jenny Rowena, also an associate professor at DU’s Miranda college, had spent her childhood there. “It was a long leisure trip,” Rowena recalls. Here, Hany Babu and Rowena had met Rona Wilson, also a Kollam native and an old friend from Delhi.

“We had all been to a resort. It was a nice time catching up. We chatted about a range of things – from politics to our lives back in Kerala,” Rowena shares.

They didn’t know it at the time, but during their vacation, Hany Babu and Rona Wilson’s phone numbers were added to a list of phone numbers that included some selected for surveillance by a client of Israel’s NSO Group.

A year later, Wilson, a prisoners’ rights activist, was named a “prime accused” in the ongoing Elgar Parishad case, and arrested on June 6, 2018. He has been in custody since then. Later, this Kerala trip became the focus of one National Investigation agency
(NIA) interrogation session that Hany Babu was subjected to for over a week before his arrest on July 28, 2020.

The mere presence of a phone number in the leaked data does alone not reveal whether a device was infected. Indeed, it is not possible to know whether their phones were targeted by Pegasus spyware – the Tel Aviv-based firm’s flagship product, which allows operators of the tool to gain unauthorised access to a user’s mobile device and functions – without digital forensic analysis. Both Babu and Wilson are currently in judicial custody, their phones confiscated by the investigating agency.

However, a review of the leaked database by The Wire and partner news organisations shows that at least nine numbers belonged to eight activists, lawyers and academics arrested between June 2018 and October 2020 for their supposed role in the Elgar Parishad case.

Others who are on the list, besides Wilson and Hany Babu, from the Elgar Parishad case include rights activist Vernon Gonsalves, academic and civil liberties activist Anand Teltumbde, retired professor Shoma Sen (her number is first selected in 2017), journalist and rights activist Gautam Navlakha, lawyer Arun Ferreira, and academic and activist Sudha Bharadwaj.

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Sixteen activists, lawyers and academics from across India have been arrested in the case since 2018. Among them, the 84-year-old Jharkhand-based tribal rights activist and Jesuit priest, Father Stan Swamy, who was arrested in October last year, died on July 5 at a hospital in Mumbai, awaiting bail on medical grounds.
The France-based media non-profit, Forbidden Stories, and Amnesty International’s Security Lab had access to these records, which they shared with The Wire and 15 other news organisations worldwide as part of a collaborative investigation and reporting project.

The extent of attack

Besides those directly accused in the Elgar Parishad case, nearly a dozen more numbers belonging to close relatives, friends, lawyers and colleagues of those arrested also appear to have been of interest.

The Wire has verified the numbers and identities of those using them. Most were interrogated by Maharashtra’s Pune police and later by the NIA between 2018 and 2020.

The leaked records also include the numbers of Telugu poet and writer Varavara Rao’s daughter Pavana; lawyer Surendra Gadling’s wife Minal Gadling, his associate lawyers Nihalsingh Rathod and Jagadish Meshram, one of his former clients Maruti Kurwatkar, who was charged in multiple cases under the Unlawful Activities (Prevention) Act (UAPA), incarcerated for over four years and later released on bail; Bharadwaj’s lawyer Shalini Gera; Teltumbde’s friend Jaison Cooper, a Kerala-based rights activist; scholar of the Naxalite movement and Bastar-based lawyer Bela Bhatia; one of the oldest members of the Kabir Kala Manch cultural group Rupali Jadhav; and tribal rights activist Mahesh Raut’s close associate and lawyer Lalsu Nagoti. The list also includes as many as five family members of one of the Elgar Parishad accused.

It is unclear if the attacker had managed to gain access to their phones.
Cooper, a Kerala resident who was booked under UAPA several years ago, told *The Wire* that he would meet Teltumbde every time he visited Kerala. “But I can’t make sense why should I or for that matter Teltumbde be surveilled upon. I am a small-time activist, working on social causes. My work is all in the public,” Cooper said.

The addition of numbers, in most cases, began mid-2018 and continued for some months. In some cases, the phones were chosen as targets during dates which correlate with significant events in the Elgar Parishad case. For instance, the data shows that Pavana’s phone appears first in the records around the time her father Varavara Rao, following a Supreme Court order, was placed under house arrest.

Eighty-year-old Rao, after spending close to 27 months in prison, was released on conditional bail in February this year.

In the cases of Bharadwaj, Gonsalves, Sen and Ferreira, the data shows that their phone numbers continued to show up in the leaked data even months after their phones were seized and they were arrested.

*Also read:* FAQ: On the Pegasus Project’s Digital Forensics

For instance, Bharadwaj was placed on house arrest on August 28, 2018 and finally sent to jail on October 26, 2018, but the leaked data shows that her number appeared in the records even after her internment – and at a time when her phone was in the custody of the Pune police. Generally speaking, phones, which constitute part of the digital evidence, once seized and sealed, cannot be switched on. Even a small change would amount to tampering with evidence.
Minal Gadling’s phone, interestingly, appears on the list months after her husband was arrested. Minal, a homemaker, says that while she is aware of her husband’s legal and social activism, she had never herself actively participated in it.

“I have barely led a public life. It surprises me then why was I targeted,” Minal told *The Wire*. The forensic analysis of Minal’s phone, an Android device, turned out to be inconclusive and it is unclear if the attempts to spy on her phone were successful.

Earlier this month, in an explosive forensic investigation carried out by the Massachusetts-based digital forensics firm Arsenal Consulting, it was found that Gadling’s laptop was attacked and surveilled upon for over 20 months, and incriminating evidence planted on it. The forensic company had published an equally damning report in February this year that showed Wilson’s computer too was compromised for over 22 months before his Delhi house was raided by the Pune police and he was eventually arrested.

Senior lawyer Mihir Desai, who is representing several persons arrested in the case, said that this attack can’t be looked at as “simple surveillance”. “It goes beyond surveillance, it is actually interference with the person’s life. The malware is planted to get control over the person’s data and life,” Desai told *The Wire*. In the absence of a clear data protection law, it has become a nightmare to defend these cases in court, Desai added.

Among other witnesses examined in the case who also find mention on the list include tribal rights activist from Bastar, Soni Sori, her nephew and journalist Lingaram Kodopi, Bharadwaj’s close legal associate Ankit Grewal, lawyer, anti-caste activist and Chhattisgarh state president of People’s Union for Civil Liberties (PUCL) Degree Prasad Chouhan and assistant professor at the Sri Ram College of Commerce Rakesh Ranjan.
Barring Kodopi, all others have had to face the NIA’s questioning for several hours.

The forensic analysis of Sori’s phone, also an Android device, was inconclusive and it is unclear if the attempts to spy on her phone were successful. Sori told *The Wire* that an NIA team had flown from Mumbai to Jagdalpur to question her in mid-2020.

“But I was down with COVID-19 and could not step out. The NIA agreed to question me over a phone call,” Sori told *The Wire*. According to Sori, the NIA officers wanted her to give specific information about Bharadwaj, ranging from their closeness to involvement in different movements.

Sori was also questioned on why she participated in the Elgar Parishad event organised on December 31, 2017, in Pune’s Shaniwarwada area. The event – organised to protest against the “Brahminical state order” – had several political thinkers, artists and academics participating from across the country.

Some participants like Sudhir Dhawale, Jyoti Jagtap, Sagar Gorkhe and Ramesh Gaichor were later booked and are now incarcerated.

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In October 2019, Citizen Lab, an interdisciplinary laboratory based at the Munk School of Global Affairs and Public Policy of the University of Toronto, had released a list of over 120 human rights defenders who were potential targets of Pegasus in India. While most states and the Union government maintained radio silence over the allegations, the Congress-led Chhattisgarh government had set up a panel to probe the matter.

The list made public then mentioned a few names of activists from the state. It was alleged that representatives from the NSO Group had met with the earlier BJP government officials in the state.

Sources in the Chhattisgarh government have revealed that the probe lacked the required seriousness and later the panel report submitted by Taran Sinha, then director of public relations and now collector of Rajnandgaon district, claimed that “nothing substantial” was found in the claims made by Citizen Lab.

All state departments were told to look into the allegations and report to the panel. Every department claimed nothing was found on record to establish that the NSO Group and state government had a meeting.

*Read The Wire’s coverage as part of the Pegasus Project [here](https://thewire.in/rights/elgar-parishad-case-surveillance-pegasus).*