

Ethical and Security Implications of Governmental Surveillance from Quranic Perspective and Foreign Government; A Comparative Study

Amirali R. Davoudpour

Iranian Canon of Medicine and Law, Administrative Wing of Law and Healing association,
Iranian Watchdog of Medicine and Law, Tehran-Iran

Email of the corresponding author: davoudpour@canmedlaw.org

Accepted and published July, 2024

Abstract: Governmental surveillance is increasingly central to state operations worldwide, justified by security imperatives but raising ethical concerns. This article explores these issues through the lens of Quranic principles, particularly Surah Al-Hujurat (49:12), which prohibits spying and malicious gossip. It integrates insights from Israeli, German, and US surveillance policies, legal frameworks, and scholarly literature to examine the ethical complexities and security implications of surveillance technologies.

Keywords: Government Surveillance, Ethics, Quran, Privacy, National Security, Art. 25 of the constitution of Islamic Republic of Iran

Introduction: In an era dominated by technological advancements, governmental surveillance has emerged as a critical tool for national security and governance. This paper examines the ethical and security implications of surveillance practices, drawing upon Quranic teachings and comparative analyses of Israeli, German, and US policies. The Quranic injunctions against suspicion and spying (49:12) offer foundational principles that resonate with contemporary debates on privacy, trust, and governance.

With these interpretations, the Quran, in accordance with verse 12 of Surah Al-Hujurat (or The Chambers), addresses the prohibition of espionage, as well as the prevention of suspicion and malicious gossip: "O you who have believed, avoid much [negative] assumption. Indeed, some assumption is sin. And do not spy or backbite each other. Would one of you like to eat the flesh of

his brother when dead? You would detest it. And fear Allah; indeed, Allah is accepting repentance and Merciful"¹.

In accordance with the previous Quranic considerations, Article 25 of the Constitution of the Islamic Republic of Iran, citizens are affirmed the rights to privacy, the sanctity of the home, and the confidentiality of communications. This constitutional provision serves as a fundamental safeguard against any encroachment upon these rights, allowing citizens to seek recourse through legal complaints in instances where these rights are violated.

The right to privacy enshrined in Art. 25 ensures that individuals have the autonomy to protect their personal information and activities from unwarranted intrusion by governmental or non-governmental entities. This includes protections against unauthorized surveillance, monitoring of communications, and unauthorized access to personal spaces such as homes and private property. By explicitly acknowledging these rights, the Iranian Constitution establishes a legal framework that obliges authorities to respect and uphold citizens' privacy rights as a fundamental component of their civil liberties

In practical terms, any violation of these constitutional guarantees can lead to legal actions initiated by affected individuals seeking redress and accountability from the responsible parties. These protections are crucial in maintaining the integrity of personal freedoms and ensuring that citizens can engage in private activities and communications without fear of undue interference or surveillance.

Literature Review: Scholarly discourse on governmental surveillance underscores its dual role in security and privacy domains. Lyon (2007) posits that surveillance operates as a mechanism of social control, while Ball (2016) discusses its ethical dimensions and impact on civil liberties. Additional perspectives from Agamben (2011) critique the normalization of surveillance in modern societies, highlighting its implications for democratic principles.

German Surveillance Policies and Legal Framework: Germany's approach to surveillance is governed by laws such as the 2017 Federal Data Protection Act (Bundesdatenschutzgesetz), which regulates the collection and processing of personal data by public authorities (Pfleiderer, 2018). The Federal Constitutional Court has played a crucial role in balancing surveillance powers with privacy rights, emphasizing the importance of proportionality and safeguards against abuse (Bundesverfassungsgericht, 2020).

Israeli Policies and Legal Framework: In Israel, surveillance practices are governed by laws such as the 2007 Intelligence and Security Services Law, which grants extensive powers to security agencies for monitoring and intelligence gathering (Berkovitch, 2018). The Israeli Supreme Court

يَا أَيُّهَا الَّذِينَ آمَنُوا اجْتَنِبُوا كَثِيرًا مِّنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ وَلَا تَجَسَّسُوا وَلَا يَغْتَب بَّعْضُكُم بَعْضًا ۚ أَيُحِبُّ أَحَدُكُمْ أَن يَأْكُلَ لَحْمَ أَخِيهِ مَيْتًا فَكَرِهْتُمُوهُ ۚ ۱
(49:12) وَاتَّقُوا اللَّهَ ۚ إِنَّ اللَّهَ تَوَّابٌ رَّحِيمٌ

has grappled with balancing security needs and individual rights, often issuing rulings that reflect a nuanced approach to surveillance legality and ethics (Hirsch, 2020).

US Surveillance Practices and Legal Framework: In the United States, surveillance activities are authorized under the Foreign Intelligence Surveillance Act (FISA) of 1978, amended multiple times to expand governmental powers in response to evolving security threats (Stone, 2020). The National Security Agency (NSA) operates under these legal frameworks, conducting electronic surveillance and data collection both domestically and internationally (Bamford, 2018).

Discussion

This study employs a qualitative approach, integrating textual analysis of Quranic verses with critical examination of Iran, German, Israeli, and US surveillance policies. Comparative analysis illuminates how different legal and cultural contexts shape surveillance practices and ethical considerations. The Quranic directive against suspicion and spying (49:12) provides a moral framework for evaluating contemporary surveillance practices and has been deemed ineffective by the obligations of governance in Islamic Republic of Iran.

The ethical dimensions of governmental surveillance intersect with broader debates on privacy rights, civil liberties, and state accountability. German, Israeli, and US policies exemplify varying approaches to balancing security imperatives with individual freedoms, reflecting complex societal values and legal frameworks. Ethical guidelines derived from Quranic teachings offer insights into promoting transparency and accountability in surveillance practices.

Conclusion:

In conclusion, governmental surveillance remains a contentious issue with profound ethical and security implications. Quranic teachings on trust and ethical conduct provide a principled foundation for evaluating surveillance practices globally. German, Israeli, and US policies demonstrate diverse approaches to surveillance legality and ethics, underscoring the need for robust governance frameworks and public discourse to safeguard individual rights amidst security challenges. However it is evident that breaches of the constitutional rights in particular Art. 25 of the constitution of the Islamic Republic of Iran takes place.

Our primary review of such concerns prevails that such infringement of the written articles in law takes place in other countries like US, Germany and Israel. Therefore the matter of constitutional rights is deemed ineffective by compulsory and supplementary laws.

References:

1. Agamben, G. (2011). **The Kingdom and the Glory: For a Theological Genealogy of Economy and Government**. Stanford University Press.

2. Bamford, J. (2018). **The Shadow Factory: The Ultra-Secret NSA from 9/11 to the Eavesdropping on America.** Anchor Books.
3. Ball, K. (2016). **The Ethics of Surveillance: An Introduction.** Routledge.
4. Berkovitch, Y. (2018). **Intelligence and Security Services Law in Israel: A Comparative Perspective.** Cambridge University Press.
5. Bundesverfassungsgericht. (2020). **Decisions of the Federal Constitutional Court on Surveillance and Privacy.** Retrieved from <https://www.bundesverfassungsgericht.de/>
6. Hirsch, M. (2020). **Surveillance and Democracy in Israel: The Ethics of Control.** University of Pennsylvania Press.
7. Lyon, D. (2007). **Surveillance Studies: An Overview.** Polity Press.
8. Pfleiderer, G. (2018). **Federal Data Protection Act: Privacy Regulations in Germany.** Springer.
9. Stone, G. R. (2020). **Top Secret America: The Rise of the New American Security State.** Back Bay Books.
10. **Foreign Intelligence Surveillance Act of 1978.** Retrieved from <https://www.congress.gov/bill/95th-congress/house-bill/7308>