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Supreme Court Upholds Aadhaar's Constitutional Validity

In a 4:1 judgment, 5 membered constitution bench of Supreme Court upheld the constitutional validity of The Aadhar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act 2016 (Hereafter, Aadhar Act).

SC was hearing a clutch of petitions filed in Supreme Court against the Aadhar Scheme of the government of India, with initial one filed in 2012 by former Karnataka High court judge K S Puttaswamy.

SC's Judgment

- **Aadhar making India a Surveillance state?**

- The Court has held that the architecture of Aadhaar, as well as the provisions of the Aadhaar Act, do not tend to create a surveillance state.
- During the enrolment process, minimal biometric data in the form of iris and fingerprints are collected. The Unique Identification Authority of India (UIDAI), does not collect purpose, location or details of the transaction. Thus, the purpose of the transaction is not stored.
- **The information collected remains in silos. The information is not accessible in combined form.** The requesting agency (like banks and the Income Tax Department) is provided an answer only in 'Yes' or 'No' about the authentication of the person concerned.
- However, dissenting judge, Justice D Y Chandrachud said that from the verification log, it was possible to locate the places of transactions carried out by an individual over the past five years.
- SC struck down Regulation 27 which provided for archiving transaction data for five years. SC has said that **authentication logs should be deleted after six months.**

- **Aadhar and Privacy**

- The Court ruled that the **Aadhar Act passed the test laid down in the Privacy judgment to determine the reasonableness of the invasion of privacy.**
 - It held that the Aadhaar scheme is backed by the statute, i.e. the Aadhaar Act.
 - It also serves legitimate State aim i.e. to ensure that social benefit schemes reach to the deserving community.
- The Court noted that the failure to establish the identity of an individual has proved to be a major hindrance for successful implementation of those programmes as it was becoming difficult to ensure that subsidies, benefits, and services reach the intended beneficiaries in the absence of a credible system to authenticate the identity of beneficiaries.
- It also noted that while the challenge to Aadhaar Act is on the basis of dignity as a facet of right to privacy under Article 21, the rationale behind **Section 7 of the Aadhaar act(which makes Aadhar mandatory for Government Benefits)** is to ensure that right to life of marginalized are protected by ensuring that they get the benefits of welfare schemes.
- **Majority judgment held that the Aadhaar Act has struck a fair balance between the right of privacy of the individual along with the right to life of the same individual as a beneficiary of government benefits.**
- However, the dissenting judge held that by collecting identity information, the Aadhaar program treats every citizen as a potential criminal without even requiring the state to draw a reasonable belief that a citizen might be perpetrating a crime or an identity fraud.
- Justice Chandrachud also held that the legitimate aim of state can also be fulfilled by adopting less intrusive measures as opposed to the mandatory enforcement of the Aadhaar scheme as the sole basis of identification.

- **Aadhar as the Money Bill**

- The Court **upheld the Lok Sabha Speaker's decision to recognize the Aadhar Act as the Money Bill.**
- While admitting that Rajya Sabha plays a significant role in our bicameral system of Parliament, and Article 110 which provide for money Bills have to be interpreted strictly, the Court held that Aadhaar Act fell within the ambit of Article 110.
- The Court held the reasoning that the main objective of Aadhaar Act is to extend **benefits in the nature of aid, grant, or subsidy to the marginalized sections of the society with the support of Consolidated Fund of India.**
- However, in the minority judgment, Justice Chandrachud said that the Passing of a Bill as a Money Bill, when it does not qualify for it, has damaged the delicate balance of bicameralism which is a part of the basic structure of the Constitution.

- **Aadhar for Services**

- SC upheld the Aadhar for government services by using the **Doctrine of Proportionality**.
- The doctrine of Proportionality postulates that the nature and extent of the State's interference with the exercise of a right must be proportionate to the goal it seeks to achieve.
- The Court upheld the validity of Section 7 of the Act stating that the rationale behind Section 7 is to ensure targeted delivery of services, benefits, and subsidies which are funded from the Consolidated Fund of India.
- This has been done keeping in view the larger interest to ensure social and economic justice, to eliminate inequality and to ameliorate a lot of the poor and the Dalits. Some such schemes are PDS, scholarships, mid-day meals, LPG subsidies, etc.
- The court held that it is convinced that the purpose of the provision is to ensure that such benefits which help to achieve the right to life, reach the deserving.
- The court also said that government cannot increase the scope of 'benefits' and 'Benefits' are such welfare schemes for which resources are to be drawn from the Consolidated Fund of India.
- Therefore actions by CBSE, NEET, JEE and UGC requirement of Aadhar for the scholarship shall not be covered under Section 7 unless it is demonstrated that the expenditure is incurred from Consolidated Fund of India.
- A benefit which is earned by an individual (e.g. pension by a government employee) cannot be covered under Section 7 of the Act, as it is the right of the individual to receive such benefit.

- **Disclosure of Data Disclosure and Data Protection**

- On the protection of biometric data, the court held that there are sufficient authentication security measures in place.
- During authentication, no information about the nature of transaction etc. is obtained.
- **The UIDAI has mandated the use of Registered Devices (RD) for all authentication request.**
- With the use of these registered devices, the biometric data is encrypted within the device using a key, and is, therefore, captured live. Before returning to the application being used by the service provider, the registered device blocks the personal identity data by encrypting it. This creates a unidirectional relationship between the host application and the UIDAI.
- The machinery which the UIDAI has created for data protection, it was of the view that it is very difficult to create the profile of a person simply on the basis of biometric and demographic information stored in Central Identities Data Repository (CIDR).
- Court also ordered the government to bring out a robust data protection regime on the basis of recommendations of **Justice B N Sri Krishna Committee report.**
- The court **struck down Section 33(2) of the Aadhar Act** which allows disclosure of information of a user in the interest of national security. However, the court held that the power of determination of such an eventuality should be given to an officer higher than the rank of a Joint Secretary.
- Court also **read down Section 33(1) of the Aadhar Act** which prohibits disclosure of information, including identity and authentication information, except when it is by an order of a district judge or higher court, the court ordered that an individual, whose information is sought, shall be afforded an opportunity of hearing.
- **SC struck down Regulation 26(c),** Aadhaar Regulations which allowed UIDAI to store metadata relating to Aadhaar based authentications or authentication history for private firms.

- **Aadhar for Children**

- For the enrolment of children under the Aadhaar Act, it would be essential to have the consent of their parents/guardian.
- On attaining the age of 18, such children who were enrolled under Aadhaar with the consent of their parents will have the option to exit from the Aadhaar project.
- SC also ruled that Aadhaar is not compulsory for admissions to schools as it is neither a service nor subsidy.
- Further, since a child between the age of 6 to 14 years has the fundamental right to education under Article 21A of the Constitution, school admission cannot be treated as 'benefit'.

- **Aadhar linking to PAN and for Income Tax-returns filing**

- SC upheld the Section 139AA of the Income Tax Act, which mandates linking of Aadhaar to PAN and providing Aadhaar while filing income-tax returns.
- SC held that the provision did not violate the right to privacy.
- By this ruling linking of PAN with Aadhar will also be mandatory.

- **Aadhar linking to banks and mobile phones**

- The circular of the Department of Telecommunications, which mandated Aadhaar-based re-verification of mobile numbers, has been held illegal and unconstitutional.
- The provision in the Aadhaar Act that allowed private entities to conduct authentications too has been held illegal, due to which corporate bodies including banks, telecom operators, mobile wallets, etc will not be able to press any customer for his or her Aadhaar number.

Ineffective E-waste Recycle Firms

According to a report by the Ministry of Environment, Forest and Climate Change, many of India's electronic-waste (e-waste) recyclers aren't recycling waste at all. While some are storing it in hazardous conditions, others don't even have the capacity to handle such waste.

- E-waste is the waste consisting of discarded electronic products (such as computers, televisions, and cell phones).
- India generates **more than two million tonnes of e-waste annually**, and the bulk of it is processed in the informal sector.
- India ranks **fifth in the world in generating e-waste**, according to the UN's Global E-Waste Monitor, 2014.

- In 2017, the Centre had brought into effect the E-waste Rules, which require companies that make or sell electronic equipment to collect a certain percentage of e-waste generated from their goods once they have reached their “end-of-life.”
- In 2017, over 200 manufacturers of electronic goods, including some e-giants, were served notices by the Central Pollution Control Board (CPCB) for not complying with e-waste procurement norms.

Key Findings

- The CPCB and the State Pollution Control Boards are empowered to check whether recycling agencies are complying with the E-waste Rules.
- A number of transgressions were found by the recycling facilities such as adopting non-environmentally sound methods of storage, handling and processing of e-waste.
- Recycling facilities were non-operational or seemed to be inadequate to handle the capacity of e-waste.
- Specific authorisation and registration is required for each activity of collection, storage, dismantling, segregation, recycling and disposal of wastes by the firms. However most of the firms which are registered as recyclers work only as dismantlers that also manually.
- Further, after dismantling the e-wastes there are no disposal yard to dispose the wastes in an environment friendly manner.
- Recycling requires specialized equipments which are costly and unaffordable by the small recycling firms.

Way Forward

- In India, recycling of e-waste is almost entirely left to the informal sector, which does not have adequate means to handle either the increasing quantities or certain processes, leading to intolerable risk for human health and the environment.
- A mechanism should be developed to formalise the recyclers by collaborating with the manufacturers which will be a win win situation for all the stakeholders.
- Initiatives should be taken to support the recyclers and dismantlers with modern technologies to handle the e-wastes in environment friendly manner.
- Currently India has only 178 registered e-recyclers which is meagre in comparison to the massive amount of waste generated. So, the Government should come up with the schemes to promote this industry which would further boost the job generation in the present scenario of jobless growth.
- Education and awareness campaign should be carried out for consumers to encourage them to dispose off the e-waste generated by them to the registered recycling firms.
- The legislations and the rules must be properly enforced to bring out better outcomes.

E-Waste (Management) Rules, 2016

- The Ministry of Environment, Forest and Climate Change notified the E-Waste Management Rules, 2016 in supersession of the e-waste (Management & Handling) Rules, 2011.
- Making the norms stringent, the new E-waste rules included Compact Fluorescent Lamp (CFL) and other mercury containing lamps, as well as other such equipments.
- For the first time, the rules brought the producers under **Extended Producer Responsibility (EPR)**, along with targets. Producers have been made responsible for collection of E-waste and for its exchange.
- Various producers can have a separate Producer Responsibility Organisation (PRO) and ensure collection of E-waste, as well as its disposal in an environmentally sound manner.
- Deposit Refund Scheme has been introduced as an additional economic instrument wherein the producer charges an additional amount as a deposit at the time of sale of the electrical and electronic equipment and returns it to the consumer along with interest when the end-of-life electrical and electronic equipment is returned.
- The role of State Governments has been also introduced to ensure safety, health and skill development of the workers involved in dismantling and recycling operations.
- A provision of penalty for violation of rules has also been introduced.
- Urban Local Bodies (Municipal Committee/Council/Corporation) has been assign the duty to collect and channelized the orphan products to authorized dismantler or recycler.

E-waste (Management) Amendment Rules, 2018

- The e-waste collection targets under EPR have been revised and is being applied from October 1, 2017.
- The phase-wise collection targets for e-waste in weight is 10% of the quantity of waste generation as indicated in the EPR Plan during 2017-18, with a 10% increase every year until 2023. The target from 2023 onwards, shall be 70% of the quantity of waste generation as indicated in the EPR Plan.
- The quantity of e-waste collected by producers from the October 1, 2016 to September 30, 2017 shall be accounted for in the revised EPR targets until March 2018.
- Separate e-waste collection targets have been drafted for new producers, i.e. those producers whose number of years of sales operation is less than the average lives of their products.
- Producer Responsibility Organizations (PROs) shall apply to the Central Pollution Control board (CPCB) for registration to undertake activities prescribed in the Rules.
- Under the Reduction of Hazardous Substances (RoHS) provisions, cost for sampling and testing shall be borne by the government for conducting the RoHS test. If the product does not comply with RoHS provisions, then the cost of the test will be borne by the producers

SC Approves Live-Streaming of Court Proceedings

The Supreme Court has pushed for greater transparency in the judicial system by allowing live-streaming of court proceedings of cases of constitutional importance.

- The court directed the centre to frame rules for this and said the project will be carried out in phases.
- The three-judge bench agreed that it would serve as an instrument for greater accountability and it formed a part of the Code of Criminal Procedure and Code of Civil Procedure.
 - **No such express provision is found in the Constitution regarding “open Court hearing”** before the Supreme Court, but can be traced to provisions such as Section 327 of the Code of Criminal Procedure, 1973 (CrPC) and Section 153-B of the Code of Civil Procedure, 1908 (CPC).
 - **Section 327 of the Code of Criminal Procedure, 1973 (CrPC)** states that the place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open Court.
 - **Section 153-B of the Code of Civil Procedure, 1908 (CPC)** states the place in which any Civil Court is held for the purpose of trying any suit shall be deemed to be an open Court.
- The SC asked the government to frame “comprehensive and holistic guidelines” and favoured the start of exercise on pilot basis in one court.
- Earlier in July, the apex court called it the “need of the hour”, saying it was open to live-streaming as this would result in increased access to justice.

The National Digital Communications Policy, 2018

The Union Cabinet has approved the new telecom policy now named **National Digital Communications Policy (NDCP) 2018** and also re-designation of the Telecom Commission as the **“Digital Communications Commission”**.

The new National Digital Communications Policy -2018 will **replace the existing National Telecom Policy-2012**, to cater to the modern technological advancements such as 5G, IoT, M2M etc. in the Telecom Sector.

Machine-to-machine, or M2M, is a broad label that can be used to describe any technology that enables networked devices to exchange information and perform actions without the manual assistance of humans.

The **Internet of Things (IoT)** is a seamlessly connected network system of embedded objects/devices, in which communication without any human intervention is possible using

standard and interoperable communication protocols. **E.g.:** An IoT-enabled air conditioning system can report whether its air filter is clean and functioning properly.

Need for National Digital Communications Policy

- **Having significant capabilities in both telecommunications and software**, India stands poised to benefit from harnessing new digital technologies and platforms to unlock productivity, as well as to reach unserved and underserved markets; thus catalysing economic growth and development, generating new-age jobs and livelihoods, and ensuring access to next generation services for its citizens.
- India's **demographic profiles vary widely** across various indices such as literacy, economic conditions and urbanisation. It is important to promote policies that increase opportunities for their social and economic development. Accordingly, this policy aims for **universal coverage rather than revenue maximization**.
- The **rapid and unprecedented proliferation** of the mobile phone, the internet, social media platforms, and the rapid expansion of digital payments, data consumption and generation across India indicate that the data economy and digital technologies and services are **widespread instruments of access and empowerment** for more than a billion Indian.
- It has been broadly estimated that a **10% increase in broadband penetration** in a country could potentially lead to an **over 1% increase in GDP**. Therefore, a consistent policy and principles framework is required to create a vibrant competitive telecom market to strengthen India's long term competitiveness.
- In order to expand mobile and broadband connectivity across the country, it is necessary to explore and utilise the opportunities presented by **next generation-networks like 5G and satellite communications**.
- As the world prepares for the **fourth industrial revolution**, India needs to be readied to embrace this opportunity through the convergence of a cluster of revolutionary technologies including 5G, the cloud, IOT and data analytics.
- India needs to promote and protect fair competition across the communications and digital economy sector.
- Given the sector's capital-intensive nature, the Policy aims to attract long-term, high quality and sustainable investments by ensuring that the regulatory structures and processes remain relevant, transparent, accountable and forward-looking.
- Additionally, the Policy aims to remove regulatory barriers and reduce the regulatory burden that hampers investments, innovation and consumer interest. The Policy also identifies steps to strengthen the sector's institutional mechanism and legislative framework.

Features of National Digital Communications Policy

It envisages **three Missions**:

1. **Connect India:** Creating Robust Digital Communications Infrastructure.
 1. **National Broadband Mission (Rashtriya Broadband Abhiyan)-** Provide **Universal** broadband connectivity at 50Mbps to every citizen by 2022.
 2. **BharatNet-** Provide 1 Gbps connectivity to all **Gram Panchayats** of India by 2020 and 10 Gbps by 2022.
 3. **GramNet** – Connecting all **key rural development institutions** with 10 Mbps upgradeable to 100 Mbps.
 4. **NagarNet** – Establishing 1 Million public **Wi-Fi Hotspots** in urban areas.
 5. **JanWiFi** – Establishing 2 Million **Wi-Fi Hotspots** in rural areas.
 6. Enable **100 Mbps broadband** on demand to **all key development institutions** including all educational institutions by 2022.
 7. **Fibre First Initiative** to take fibre to the home, to enterprises and to key development institutions in Tier I, II and III towns and to rural clusters.
 8. Establishment of a **National Digital Grid** by **National Fibre Authority**.
 9. Strengthening **Satellite Communication** Technologies in India by reviewing SATCOM policy, making available new spectrum bands, streamlining administrative processes for assignment and allocations, clearances and permissions related to satellite communication systems, etc.
 10. Ensuring Customer Satisfaction, Quality of Service and effective Grievance Redressal by establishing **Telecom Ombudsman**, framing a comprehensive policy to encourage the adoption of **environmental and safety standards** and incentivising the use of **renewable energy technologies** in the communications sector.
2. **Propel India:** Enabling Next Generation Technologies and Services through Investments, Innovation and IPR generation.
 1. Attract **investments of USD 100 Billion** in the Digital Communications Sector, **expand IoT ecosystem** to 5 Billion connected devices, accelerate transition to Industry 4.0 by 2022.
 2. Creation of innovation led Start-ups in Digital Communications sector.
 3. Creation of **Globally recognized IPRs (Intellectual Property Rights)** in India.
 4. Development of Standard Essential Patents (SEPs) in the field of digital communication technologies.
 5. **Train/ Re-skill** 1 Million manpower for building New Age Skills.

3. **Secure India:**Ensuring Sovereignty, Safety and Security of Digital Communications.

1. Establish a comprehensive **data protection regime** for digital communications that safeguards the privacy, autonomy and choice of individuals and facilitates India's effective participation in the global digital economy.
2. Ensure that **net neutrality principles** are upheld and aligned with service requirements, bandwidth availability and network capabilities including next generation access technologies.
3. Develop and deploy **robust digital communication network** security frameworks.
4. Build capacity for **security testing** and establish appropriate security standards.
5. Address security issues relating to encryption and security clearances.
6. Enforce accountability through appropriate institutional mechanisms to assure citizens of safe and secure digital communications infrastructure and services.

Important Facts for Prelims (27th September 2018)

Indian Ocean Naval Symposium

- The 'Indian Ocean Naval Symposium' (IONS) is a voluntary initiative that seeks to increase maritime cooperation among navies of the littoral states of the Indian Ocean Region by providing an open and inclusive forum for discussion of regionally relevant maritime issues.
- It endeavours to generate a flow of information between naval professionals that would lead to common understanding and possibly cooperative solutions on the way ahead.
- There are 36 littoral in the Indian Ocean which have been geographically grouped into the following four sub-regions.
 - South Asian Littorals - Bangladesh, India, Maldives, Pakistan, Seychelles and Sri Lanka
 - West Asian Littorals - Bahrain, Iran, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, UAE and Yemen
 - East African Littorals - Comoros, Djibouti, Egypt, Eriteria, France, Kenya, Madagascar, Mauritius, Mozambique, Somalia, South Africa, Sudan and Tanzania
 - South East Asian and Australian Littorals - Australia, Indonesia, Malaysia, Myanmar, Singapore, Thailand and Timor Leste

- The inaugural of IONS-2008 was held in New Delhi. The theme of the IONS-2008 was “Contemporary Trans-national Challenges – International Maritime Connectivities”.
- The 2nd edition i.e. IONS-2010 was held in Abu-Dhabi. The theme of IONS-2010 was "Together for the Reinforcement of Maritime Security in the Indian Ocean".

TRIFED & TRIBES INDIA

- TRIFED and Tribes India under Ministry of Tribal Affairs will launch “Punch Tantra” Collection and also appointed Ms. Mary Kom as the Brand Ambassador of Tribes India”.
- The Punch Tantra is a collection of powerful tribal legacy, which comprises of a range of ethnic and traditional tribal handicraft and handloom products like Sarees, Stoles, Dupattas, Shawls, Kurtas/Kurtis, Lampshades (Kandels), Sky Lanterns, Diyas, Gift hampers, etc. specially introduced for the coming Diwali and festival season.

Tribes India

- It is an e-commerce platform of Tribal Co-operative Marketing Development Federation of India Limited (TRIFED). It aims to promote e-commerce for tribal artisans by a dedicated website, mobile app, and partnership with e-commerce portals.
- It has set the retail sales target of Rs. 100 crores to be achieved during the year 2018-19.

TRIFED

- The Tribal Co-operative Marketing Development Federation of India Limited (TRIFED) was founded in 1987. It is a national-level apex organization functioning under the administrative control of Ministry of Tribal Affairs.
- Other initiatives of TRIFED:
 - Aadi Mahotsavas- Organised in Delhi, Jaipur, Bhopal, Ranchi, Chandigarh and Guwahati to facilitate tribal artisans to directly link up with big markets.
 - Aadi Vyapar- A handbook for TRIFED’s retail trade to institutionalize the sale and procurement operations
 - For Minor Forest Produce-
 - Pricing of Minor Forest Produces need to be carefully done so that tribals can get best price for their products.
 - Minimum Support Price and Value Addition Scheme for Minor Forest Produces has now been extended to 19 States and that Value Addition has been given high priority.
 - A target has been set for 30,000 Value Addition Centres in rural areas.
 - Tribes Haat- A news magazine to provide information to all stakeholders and customers about its activities and to attract them to be partners in the tribal development strategy.

Agmark Online

- Minister of Agriculture and Farmers' Welfare launched the online software for Agmark.
- The Agmark online is under the Digital India initiative, now the application processes related to Agmark certification will be done online by the Directorate of Marketing & Inspection (DMI).
- The Agricultural Produce (Grading and Marketing) Act, 1937, popularly known as AGMARK Act, prescribes certain standards of quality for agricultural produce and verifies whether certain products get marked safe as per the AGMARK regulations.
- The use of modern technologies by the National Informatics Center has made these processes easy, reliable and cost-effective by providing online electronic mode.

Goods and Services Network (GSTN)

- The Union cabinet has approved increasing the government ownership in Goods and Services Tax Network.
- The restructured GSTN stake with 100 per cent government ownership, will be acquired equally between the Centre(50%) and the states (50%).
- The decision was based on the rationale that a vast amount of GST-related data should be completely under the government's supervision, as it is a repository of sensitive information of over 1 crore taxpayers.

New Governance Structure

The Cabinet also decided to allow directors who will be nominated by the Central and state governments, three other independent directors would be nominated by the board of directors.

Background

- Goods and Services Tax Network is a not for profit, non-Government, private limited company.
- The Government of India holds 24.5% equity in GSTN and all states including NCT of Delhi and Puducherry, and the Empowered Committee of State Finance Ministers, together hold another 24.5%. Balance 51% equity is with non-Government financial institutions such as ICICI, HDFC.
- GSTN has been set up primarily to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax.
- The Authorized Capital of the company is Rupees ten crore.

- Creation of common and shared IT infrastructure for functions facing taxpayers has been assigned to GSTN and these are filing of registration application, filing of return, creation of challan for tax payment, settlement of IGST payment , generation of business intelligence and analytics.

ASTRA MISSILE

- The Indian Air Force successfully test fired the indigenously developed Beyond Visual Range Air-to-Air Missile Astra from a Su-30 aircraft.
 - The Astra missile is developed as part of the Integrated Guided Missile Development Programme.
 - DRDO carried out mission analysis, system design, simulation and post flight weapon analysis of weapon system.
 - It can successfully engage a manoeuvring target with high precision.
 - The highly agile, accurate and reliable missile features high Single Shot Kill Probability (SSKP) and is capable of operating under all weather conditions.
 - The electronic counter-measures feature improves the missile's target tracking capability by reducing the effect of electronic countermeasures of the enemy targets in jamming environments.
 - The Astra Beyond Visual Range air to air missile is powered by a smokeless, single stage, solid fuel propulsion system. It can intercept and destroy enemy targets with a launch speed between Mach 0.4 and Mach 2.
-