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Aadhaar's weak foundations

A collection of 15 well-argued essays is essential reading for believers and sceptics alike, says Vipul Mudgal

Aadhaar is about to be a decade old. The Unique Identification Authority of India (UIDAI) came up in 2009 under the Planning Commission. Ever since, it has altered our lives irrevocably. In normal circumstances, a decade is long enough for a public policy to show results or to provide clear indications of where things are headed. But normal circumstances do not apply to Aadhaar, which has emerged as an article of faith. In 2016, it got the backing of an Act of Parliament, and the policy continued despite a historical Supreme Court judgment upholding privacy as a fundamental right.

The jury is still out on its actual impact but the idea has deeply divided India's activists, intellectuals and policymakers. So sharp is the rift that some would shoot the messenger rather than listen to any bad news about Aadhaar while others will accept the idea only "over my dead body". For the believers, in short, it is one of India's biggest achievements of a scale unknown in human history, and for the naysayers it is by far India's most blatant public policy hijack.

The Aadhaar debate is unusual because the government, the Opposition, the bureaucracy, much of the legal system and businesses are mostly on the same side. They broadly support the stated objective, i.e., to provide a secure verification of identity and easy access to public goods and services to all. They have no issues with converting a vast ocean of humanity into bits of cheap data and leveraging that for businesses. We may disagree but the market says it is good for us if all our assets and accounts are linked to the formal financial systems. Banks, financial institutions, insurance, healthcare and other tech-enabled businesses see it as a win-win proposition for all. "A social security system on steroids" is how the head of a startup who once worked on the project called it! Reetika Khara's book invites area experts to analyse all such claims with the help of that Holy Grail which is at the root of it all: data.

The book says that targeting poverty or building social security are a subterfuge for the idea of harvesting data for businesses in the name of the poor. It demonstrates that the policy on the ground is mainly about the exclusion of the poor, as also about government surveillance and illicit data mining. Khara raises these and many more serious questions, such as its negative impact on welfare programmes. Her Right To Information (RTI) query in 2015 revealed that only 0.03 per cent of the Aadhaar numbers were

issued through the much-touted introducer system and the rest used the other routine IDs and address proofs, which the Aadhaar system was meant to replace in the first place. As the title suggests, *Dissent on Aadhaar* is a one-sided and a critical-only perspective but the contributors present a nuanced rather than a black-and-white picture.

In all fairness, the disagreements over Aadhaar could have been softer had it been deliberated fairly and in the right forums. Some amount of convergence of views was also possible if the stakeholders were consulted in the process of drafting the policy or the legislation. The book shows that the stealth associated with the execution of Aadhaar was breathtaking. The UIDAI was first brought in through a gazette notification to enrol people voluntarily and later endorsed as a Money Bill enabling it to bypass the Rajya Sabha where the Opposition held a majority. Given the opportunity, the Opposition could have moved some amendments so as to prevent the exclusion of the poor from services like PDS rations, old-age pensions or MNREGA wages. Anumeha Yadav takes you to rural areas to show how the biometrics repeatedly fail the poor, particularly the manual labourers and the elderly. And that is why Jean Dreze believes that the idea should have been implemented as "minimum use, maximum safeguards" rather than the other way around. It could have become a "valuable document for many people", had it been introduced as a voluntary and verifiable all-purpose identity card, he argues.

The trajectory of the same law would have been vastly different if the court had reversed the Speaker's decision to list it as a Money Bill, reasons Justice A P Shah in his Foreword. He cites Justice D Y Chandrachud's dissenting judgment which called it "illegal and unconstitutional" and a "fraud on the constitution". The book is particularly strong on legal aspects such as individual liberty and privacy with

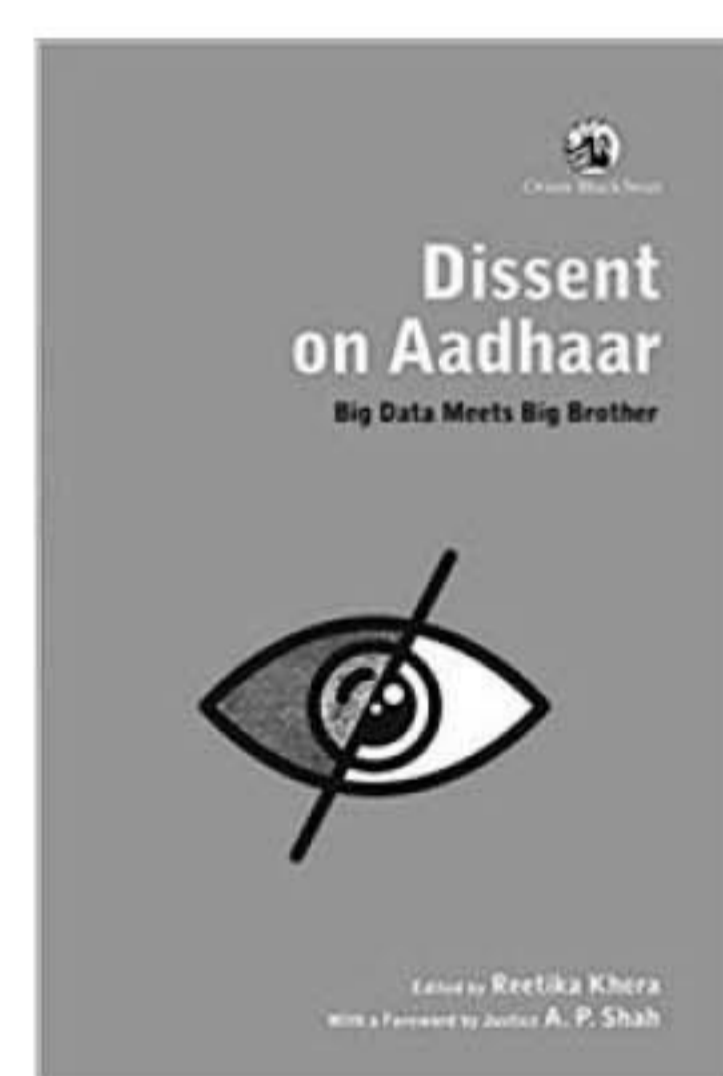
contributions from Justice Shah, lawyers Usha Ramanathan, Gautam Bhatia, Shyam Diwan and Prasanna S. While Bhatia defines the limitations of the historical privacy judgment, Ramanathan minces no words to assert that private profit hides behind welfare with the help of a coercive state. MS Sriram questions the impartiality of the "pro bono" iSPIRIT, a thinktank of volunteers which is often consulted and influences policies around Aadhaar in favour of data entrepreneurs without public accountability.

The activists also refute any claims of Aadhaar's comparability with the US Social Security Number (SSN) — which is protected by legislation specifically enacted for the purpose of guarding information privacy. Srujana Bej argues that the information collected by Aadhaar is far less conducive to privacy than SSN. Sunil Abraham converts some technical arguments on biometrics, surveillance and data protection architecture into fun reading. How many of us know that the citizens are paying to be surveilled? His solution: the powerful must be subject to more surveillance and the poor should be spared undue intrusions. The book offers a rich discussion on privacy and the conversion of "personhoods"

into databases. Be warned, the next stage of identification technology like DNA fingerprints and facial recognition are going to be much worse. And that is why lawyer Shyam Diwan alerts you to the need to retain autonomy and dominion over biometric information as the new demands of privacy in a hyper-connected world.

Dissent on Aadhaar is essential reading for believers and sceptics alike. Its 15 well-argued essays show what is terribly wrong with the idea and implementation of Aadhaar by assorted academics, lawyers, techies and journalists. It offers a clearly critical perspective and yet, three things strike you when you read the book: First, it is rooted in high-quality legal discourse, second, it makes intricate mechanics intelligible and, third, it has an impeccable ground connect. My own takeaways are about valuing transparency in design choices we make from an array of alternatives, and an understanding of why dissent is vital for policy deliberations.

The reviewer is director and chief executive of Common Cause



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