



CENTRE FOR COMMUNICATION GOVERNANCE AT NATIONAL LAW UNIVERSITY DELHI

RESPONSE TO CALL FOR SUBMISSIONS ON DIGITAL TECHNOLOGY, SOCIAL PROTECTION AND HUMAN RIGHTS¹

The Centre for Communication Governance is an academic research centre within the National Law University Delhi and is dedicated to working on information law and policy in India. It seeks to embed human rights and good governance within communication policy and protect digital rights in India through rigorous academic research and capacity building.

We thank the United Nations Special Rapporteur on extreme poverty and human rights for inviting submissions in the on the human rights impacts of the introduction of digital technologies in the implementation of national social protection systems. In our response to the call for submissions below, we have provided some examples of the introduction of digital technologies into India's extensive welfare programs, and discussed the impact of such introduction.

Background and Constitutional Position in India

The directive principles of State policy contained in part IV of the Indian Constitution² establish India as a welfare state. To this effect, there is a robust system of social welfare programmes in India, which deal with different groups of citizens in need of welfare benefits and social protection.

¹ Authored by Nidhi Singh and Smitha Krishna Prasad.

² Constitution of India 1950.

At the same time, a large percentage of the Indian population lives in poverty³ - individuals with daily per capita consumption expenditure less than INR 32 in rural areas and INR 47 in urban areas⁴.

In order to tackle the issue of poverty, successive governments have implemented and / or reformed welfare programs to provide for various benefits, including provision of food grains, guaranteed minimum employment, and free / affordable healthcare and education.

Digital Technology and Welfare: The Aadhaar Project

Aadhaar is a 12-digit unique identifying number issued to Indian residents, containing biometric and demographic information⁵; it is the world's largest biometric identification system⁶.

The Aadhaar project was formulated for the purpose of improving delivery of welfare benefits and subsidies, and reducing corruption and inefficiencies in these systems. In the context of social protection and welfare, the Aadhaar aims '(t)o provide for good governance, efficient, transparent and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to residents of India through assigning of unique identity numbers.'⁷ The Aadhaar programme has also been specifically identified⁸ as one of the programmes which have directly contributed to meeting the Sustainable Development Goals, by providing a unique identity to the people.

At the time of enrolment for an Aadhaar number, personal data including name, age, gender, fathers/husband's name as well as biometric information such as an iris scan,

³ Anywhere between 21% to 30% of the population depending upon the methodology used; see C Rangarajan, 'Report of the Expert Group to Review the Methodology for Measurement of Poverty.' (Planning Commission 2014) <http://planningcommission.nic.in/reports/genrep/pov_rep0707.pdf> accessed 26 April 2019.

⁴ *ibid.*

⁵ 'What Is Aadhaar' (*Unique Identification Authority of India | Government of India*) <<https://uidai.gov.in/what-is-aadhaar.html>> accessed 26 April 2019.

⁶ Dilsher Dhillon, 'Over 1.21 Billion People Are Enrolled in the World's Largest Biometric Identification System' *Business Insider* (16 July 2018) <<https://www.businessinsider.in/over-1-21-billion-people-are-enrolled-in-the-worlds-largest-biometric-identification-system/articleshow/65009409.cms>> accessed 17 May 2019.

⁷ 'Vision & Mission' (*Unique Identification Authority of India | Government of India*) <<https://uidai.gov.in/about-uidai/unique-identification-authority-of-india/vision-mission.html>> accessed 29 April 2019.

⁸ Government of India, 'Voluntary National Review Report on the Implementation of Sustainable Development Goals' (UN High Level Political Forum 2017) 7 <<https://sustainabledevelopment.un.org/content/documents/15836India.pdf>> accessed 26 April 2019.

photograph and the fingerprints of the individual are collected.⁹ The individual is then provided with the Aadhaar number, a unique identifier, which is to be used to verify / authenticate the identity of the individual at a later time, typically in combination with either a mobile / SMS based 'one time password' or fingerprint scans. However, in practice, the Aadhaar has often been reduced to a printed paper identity card.

The programme was initially notified by way of executive order in 2009, and the Unique Identification Authority of India (UIDAI) was set up to oversee the implementation of the Aadhaar programme. Legislation to govern the program was only passed in 2016, in the form of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 (Aadhaar Act). The UIDAI was established as a statutory authority under the Aadhaar Act. The Aadhaar Act has been enacted to¹⁰

“provide for, as a good governance, efficient, transparent, and targeted delivery of subsidies, benefits and services, the expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India through assigning of unique identity numbers to such individuals and for matters connected therewith or incidental thereto.”

The objectives and mission statements of the UIDAI focus upon the provision of welfare as a primary aim for Aadhaar and focus upon the issues relating to inclusion of technology and the consequences of the same.¹¹

Use of Aadhaar for Welfare Programs

Between 2009 and 2018, the use of the Aadhaar number, as a form of identification and verification of identity (by way of fingerprint verification for instance), was made mandatory for availing benefits and subsidies under most welfare programs in India. Having individuals verify their identity by way of a 'unique' factor such as a fingerprint, was seen as crucial to limiting fraud and corruption in these systems, and ensuring that welfare benefits and subsidies are delivered in a targeted manner. While a number of traditional welfare schemes in India involve the provision of benefits in kind, for instance food grains under the Public Distribution System (PDS), the use of Aadhaar

⁹ 'What Is Aadhaar' (n 5).

¹⁰ Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016

¹¹ 'Vision and Mission' (n 7)

in particular has been seen as a way to possibly implement Direct Benefit Transfers (DBT), where cash benefits are provided directly in lieu of benefits in kind¹². Currently, DBT has only been implemented in a limited capacity, Aadhar has been linked to many welfare schemes, including DBT styled schemes, which are expected to grow in the future.¹³

Some examples of the use of Aadhaar for welfare programs are provided below:

1. The Mahatma Gandhi National Rural Employment Guarantee Scheme programme is envisaged to provide 100 days of employment to all rural households.¹⁴ The cost of wages under the scheme constitutes about 70 percent of the total scheme expenditure. The introduction of Aadhaar into the scheme aims at solving key problems with the diversion of funds, through ghost beneficiaries and inflated/ fake work records.¹⁵
2. The Mid-Day Meal Scheme (MDM) scheme is one of the government's flagship programmes in the field of primary education, it addresses the nutritional requirements of children through provision of cooked meals.¹⁶ The Aadhaar mechanism in this context was meant to provide a robust tracking mechanism to monitor the enrolment and attendance of students, to prevent misuse of funds.¹⁷
3. The PDS is arguably India's single largest welfare scheme, which costs about 1% of the GDP¹⁸ and guarantees food grains, mainly rice and wheat to people below the poverty line. The next step envisioned in the process seeks to substitute direct cash transfers in lieu of grains.¹⁹

¹² 'DBT' (*Direct Benefit Transfer*) <<https://dbtbharat.gov.in/scheme/getallservicelist>> accessed 17 May 2019.

¹³ *ibid.*

¹⁴ National Rural Employment Guarantee Act 2005.

¹⁵ 'Estimated Gains' (*Direct Benefit Transfer*) <<https://dbtbharat.gov.in/page/frontcontentview/?id=ODM=>> accessed 17 May 2019.

¹⁶ 'MDM Helps in Reducing Anaemia' (*Press Information Bureau*, 25 May 2018) <<http://pib.nic.in/newsite/mbErel.aspx?relid=84500>> accessed 17 May 2019.

¹⁷ Prashant K Nanda, 'Aadhaar Linkage: Three States Strike out 272,000 Fake Students' (*https://www.livemint.com*, 10 August 2017) <<https://www.livemint.com/Politics/fAAkrlWoXWYTrQFjdNA6DP/Aadhaar-linkage-Three-states-strike-out-272000-fake-studen.html>> accessed 17 May 2019.

¹⁸ 'Demand for Grants 2018-19 Analysis: Food and Public Distribution' (*PRSIndia*, 1 March 2018) <<https://www.prsindia.org/parliamenttrack/budgets/demand-grants-2018-19-analysis-food-and-public-distribution>> accessed 17 May 2019.

¹⁹ Richard Mahapatra, 'Kind to Cash' (17 August 2015) <<https://www.downtoearth.org.in/coverage/kind-to-cash-32976>> accessed 17 May 2019.

This has received mixed reactions, on the one hand, replacing grains with cash deposits into Aadhaar-linked accounts would greatly lessen the financial burden on the state and reduce corruption perpetuated through ghost subsidiaries and duplicate accounts.²⁰ On the other hand, it does not take into account corruption which may be perpetuated or the increased burden upon the farmers of rice and wheat.²¹

Concerns and Controversies regarding the Aadhaar Programme:

1. Formulation and implementation of the program:

One of the primary concerns raised against the implementation of Aadhaar from the very outset, is the lack of legal frameworks governing the programme. After its creation by an executive order in 2009, the project remained mostly unregulated until 2016, when the Aadhaar Act²² was passed. The legislative history of the act is also marred by controversy. The bill was first introduced in parliament in 2010, and was then sent to the Parliamentary Standing Committee of Finance, which urged the government to reconsider the scheme, stating that the scheme was ‘riddled with serious lacunae’ and ‘lacked conceptual clarity’²³.

The legislation was eventually passed in 2016, when it was controversially pushed through Parliament as a ‘money bill’²⁴. This allowed it to bypass the upper house of the legislature, where the ruling party did not have majority²⁵. While the Supreme Court upheld the passing of the bill as a money bill due to the subsidies contained within the

²⁰ Saksham Khosla, ‘India and Cash Transfers - India’s Universal Basic Income: Bedeviled by the Details’ (*Carnegie India*, 14 February 2018) <<https://2018/02/14/india-and-cash-transfers-pub-75503>> accessed 17 May 2019.

²¹ Harsh Mander, ‘Replacing Food with Cash’ (<https://www.livemint.com>, 20 October 2015) <<https://www.livemint.com/Opinion/hnytasM4zVTEWmQnt1fc1N/Replacing-food-with-cash.html>> accessed 17 May 2019.

²² Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act 2016.

²³ ‘The National Identification Authority of India Bill, 2010’ (Standing Committee on Finance 2011) 42 <<https://www.prindia.org/uploads/media/UID/uid%20report.pdf>> accessed 29 April 2019.

²⁴ A Money Bill as defined under Article 110 of the Constitution of India is a bill which primarily deals with financial matters, including matters of expenditure from the Consolidated Funds of India. Special parliamentary procedures are prescribed for such bills, which need not be passed by the upper house of Parliament. See Dr Anup Surendranath, ‘Aadhaar Act as a Money Bill- Judicial Review of the Speaker’s Determination Concerning Money Bills.’ (Centre for Communication Governance 2018) <<https://ccgdelhi.org/wp-content/uploads/2018/10/CCG-NLU-Aadhaar-Money-Bill.pdf>> and Arvind Datar and Rahul Unnikrishnan, ‘Aadhaar: The Money Bill Controversy’ (*Bar & Bench*, 15 October 2018) <<https://barandbench.com/aadhaar-money-bill-controversy/>> accessed 29 April 2019.

²⁵ Datar and Unnikrishnan (n 24).

act, this significantly affected the jurisprudence of the intent and purposes of the act, as it was not properly debated²⁶.

Another important issue that has caused concern since the early days of Aadhaar is the lack of a proper cost-benefit analysis prior to the implementation of Aadhaar. While a much over-due cost-benefit analysis²⁷ was finally conducted in 2013 by the National Institute of Public Finance and Policy, the analysis has also faced much criticism on the grounds that it was partially funded by UIDAI, and that it ignores several important factors like availability of alternative technologies in its study.²⁸

Thus, due to the contentious nature of debate on Aadhaar, the delay in conducting any analysis, and the lack of transparency, it is difficult to determine the actual cost-savings realized through the use of these digital technologies in the social protection system.²⁹

2. The Right to Privacy and Security Concerns

One of the most important human rights concerns in relation to the Aadhaar project is the potential for violation of the Right to Privacy. In 2017, in a judgment that arose directly from the litigation challenging the validity of the Aadhaar project itself, the Supreme Court affirmed that a fundamental right to privacy exists under the Constitution.³⁰ The next question to be considered was whether the Aadhaar project is a violation of such right. The vast amount of data collected under the Aadhaar project lead to concerns regarding data security, bodily integrity affected by the use of biometrics, personal integrity and concerns relating to data mining³¹. The 'function creep' in the use of Aadhaar, beyond its stated purpose of enabling efficiency in the distribution of welfare benefits was also cause for concern, with all manner of public and private entities using Aadhaar for identification of individuals.³² In addition to the

²⁶ 'SC Upholds Aadhaar as Money Bill: Here Is What Experts, Govt Said Back Then' *Business Standard India* (26 September 2018) <https://www.business-standard.com/article/current-affairs/sc-upholds-aadhaar-as-money-bill-here-is-what-experts-govt-said-back-then-118092600734_1.html> accessed 29 April 2019.

²⁷ 'A Cost-Benefit Analysis of Aadhaar' (National Institute of Public Finance and Policy 2012) <http://macrofinance.nipfp.org.in/FILES/uid_cba_paper.pdf> accessed 29 April 2019.

²⁸ Reetika Khera, 'A "Cost-Benefit" Analysis of UID' (2013) 48 *Economic and Political Weekly* 7.

²⁹ Reetika Khera, 'Impact of Aadhaar on Welfare Programmes' (2017) 52 *Economic and Political Weekly* 7.

³⁰ *Puttaswamy vs Union of India* (2017) 10 SCC 1.

³¹ Reetika Khera, 'Introduction', *Dissent on Aadhaar: Big Data Meets Big Brother* (Orient BlackSwan 2018).

³² Aria Thaker, 'Aadhaar's Mixing of Public Risk and Private Profit' (*The Caravan*, 1 May 2018) <<https://caravanmagazine.in/reportage/aadhaar-mixing-public-risk-private-profit>> accessed 17 May 2019.

requirement of Aadhaar numbers for the provision of services, reports suggest that many states in India were linking Aadhaar numbers to 'resident data hubs'³³, and other surveillance mechanisms, causing concerns regarding the use of the Aadhaar number to create a 'surveillance state'.

A number of reports have also raised concerns relating to the breach of the right of privacy, stemming from the breach of the database in which the information collected from Aadhaar is being stored³⁴. While the UIDAI has categorically denied such a breach several times, the reports of these breaches continue to come to light.³⁵

There is a constant struggle to establish the credibility of the Aadhaar databases, while reports about data leaks continue to surface, the government categorically denies any breach of the database. This makes it difficult to ascertain the security of the information which is stored with the state. This problem is further compounded by the lack of comprehensive data protection laws in India, and the provisions of the Aadhaar Act, which make it impossible for citizens to file claims relating to the breach of data security.³⁶ Only the UIDAI is entitled to prosecute complaints of any breach of the Aadhaar Act. However, even as complaints continue to surface, UIDAI has not filed any claims, making it impossible to investigate or prosecute for the breach of the database³⁷.

3. Exclusion

Linking of Aadhaar with welfare schemes also raises issues relating to the provision of social welfare by the State itself. Reports state that there have been added difficulties in the implementation of several welfare programs due to the requirement

³³ Aman Sethi, 'Why State Data Hubs Pose a Risk to Aadhaar Security | India News | Hindustan Times' (*Hindustan Times*, 13 May 2018) <<https://www.hindustantimes.com/india-news/why-state-data-hubs-pose-a-risk-to-aadhaar-security/story-Klyl3yT5MkFk6Szg2yGg9N.html>> accessed 17 May 2019.

³⁴ Kaushik Deka, 'The End of Privacy - Cover Story News - Issue Date: Apr 9, 2018' (*India Today*, 28 March 2018) <<https://www.indiatoday.in/magazine/cover-story/story/20180409-indian-user-personal-data-leak-bjp-congress-data-leak-aadhaar-facebook-1201189-2018-03-29>> accessed 17 May 2019.

³⁵ In 2018 a French security researcher pointed the flaws in the m-Aadhaar app that is available on the Google Play Store; Last year 210 government websites accidentally leaked the Aadhaar data of beneficiaries; the website run by Jharkhand Directorate of Social Security leaked Aadhaar details about 1.6 million people living in Jharkhand due to a technical glitch; In addition there have been numerous instances of data breaches by third-parties as well, such as when the Aadhar application of a prominent cricketer was leaked online.

³⁶ Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act s 47.

³⁷ Reetika Khera, 'Aadhaar and Privacy', *Dissent on Aadhaar: Big Data Meets Big Brother* (Orient BlackSwan).

to mandatorily use / link Aadhaar numbers for identification / verification.³⁸ These include measures aimed at children, such as the MDM scheme, where reports suggest that several children have been denied free meals in government schools, or even admission into schools without an Aadhaar card, creating serious concerns regarding the violation of their right to education.³⁹

In the field of healthcare as well, examples of exclusion are rampant, with hospitals requiring patients to provide an Aadhaar card / number for most services, including sometimes for the provision of death certificates to the families of deceased patients. Many reports suggest that patients have routinely been turned away for lack of an Aadhaar number / card.⁴⁰ This requirement also created additional hurdles for patients from minority communities, given the privacy concerns that come with Aadhaar. For instance, many people living with HIV find it difficult to receive medical treatment for the fear that they may have to submit their Aadhaar details for the same, which would disclose their identity.⁴¹

There are also reports of disabled and aged people facing additional difficulty since they may be unable to physically report to an enrolment centre to obtain an Aadhaar number, and this has further resulted in them being denied benefits which they have been entitled to under various government schemes.⁴² The insistence upon Aadhaar also excludes classes of the population who may be unable to provide the biometric information due to disability, or access an biometric verification device with adequate connectivity in a timely manner, or simply a mis-match in their fingerprints. An example of this are the rising rates of deaths relating to starvation⁴³ caused by the government's

³⁸ Reetika Khera, 'Aadhaar Failures: A Tragedy of Errors' (*Economic and Political Weekly*, 5 April 2019) <<https://www.epw.in/engage/article/aadhaar-failures-food-services-welfare>> accessed 17 May 2019.

³⁹ Nupur Anand and Ananya Bhattacharya, 'Aadhaar Is Voluntary—but Millions of Indians Are Already Trapped' (*Quartz India*, 26 September 2018) <<https://qz.com/india/1351263/supreme-court-verdict-how-indias-aadhaar-id-became-mandatory/>> accessed 17 May 2019.

⁴⁰ Praneta Jha, 'National Health Stack: An Architecture Of Doom For Public, Data For Private Profit | NewsClick' (*News Click*, 21 July 2018) <<https://www.newsclick.in/national-health-stack-architecture-doom-public-data-private-profit>> accessed 17 May 2019.

⁴¹ Menaka Rao, 'Why Aadhaar Is Prompting HIV Positive People to Drop out of Treatment Programmes across India' (*Scroll.in*) <<https://scroll.in/pulse/857656/across-india-hiv-positive-people-drop-out-of-treatment-programmes-as-centres-insist-on-aadhaar>> accessed 17 May 2019.

⁴² Reporter, 'Aadhaar Enrolment a 'harrowing Experience' for the Disabled' *The Hindu* (Bengaluru, 15 July 2017) <<https://www.thehindu.com/news/national/karnataka/aadhaar-enrolment-a-harrowing-experience/article19287268.ece>> accessed 17 May 2019.

⁴³ 'Of 42 "Hunger-Related" Deaths Since 2017, 25 "Linked to Aadhaar Issues"' (*The Wire*, 21 September 2018) <<https://thewire.in/rights/of-42-hunger-related-deaths-since-2017-25-linked-to-aadhaar-issues>> accessed 17 May 2019.

insistence on linking the PDS with Aadhaar, which resulted in excluding several families from the list of beneficiaries. In addition, exclusion also occurs because of errors in the Aadhaar system itself, leading to provision of benefits to the wrong beneficiaries etc.⁴⁴

Supreme Court on Aadhaar

In 2018, the Supreme Court ruled on the validity of the Aadhaar programme, with the majority of judges on the bench upholding the programme.⁴⁵ The majority's judgment upheld the linking of the Aadhaar number with India's welfare programs, while noting that alternative mechanisms should be provided where Aadhaar based verification cannot be undertaken. However, it is unclear to what extent this is applied in practice, and implementation is found to be lacking in many situations⁴⁶.

The Court also struck down provisions of law permitting the use of Aadhaar by private entities, and recommended changes in the law relating to the complaints / enforcement mechanism, judicial oversight for sharing of Aadhaar information with security and law enforcement agencies. However, a reading of the dissenting judgment by J. Chandrachud, shows that there are several concerns regarding the program that remain un-addressed.

The Indian Government has also passed by way of executive ordinance, an amendment to the Aadhaar Act, in order to bring it in line with the judgment of the Court.⁴⁷ However, the provisions of this amendment have been criticised.⁴⁸ Other litigation regarding more specific aspects of the Aadhaar program continues to be pending before the Courts.⁴⁹

International Reaction to the Aadhaar Programme

⁴⁴ Anand and Bhattacharya (n 39).

⁴⁵ *Puttaswamy vs Union of India* (2018) WRIT PETITION (CIVIL) NO. 494 OF 2012.

⁴⁶ Anand and Bhattacharya (n 39).

⁴⁷ The Aadhaar and Other laws (Amendment) Ordinance 2019.

⁴⁸ Gopal Sathe, 'Aadhaar Amendment: Government Chooses Companies Over Citizens | HuffPost India' (*Huffington Post*, 2 January 2019) <https://www.huffingtonpost.in/entry/aadhaar-amendment-bill-repeats-the-mistakes-of-the-aadhaar-act_in_5c2ca726e4b0407e9086a338> accessed 17 May 2019.

⁴⁹ Apoorva Mandhani, 'Delhi HC Issues Notice On Prof. Shamnad Basheer's Petition Seeking Exemplary Damages For Aadhaar Data Leak [Read Petition]' (*LiveLaw*, 21 August 2018) <<https://www.livelaw.in/delhi-hc-issues-notice-on-prof-shamnad-basheers-petition-seeking-exemplary-damages-for-aadhaar-data-leak-read-petition/>> accessed 17 May 2019.

The Aadhaar programme has been lauded by international observers, such as the World Bank. In its 'Ending Poverty and Sharing Prosperity'⁵⁰ report released in 2014, the World Bank commends the Aadhaar program in reference to poverty alleviation schemes. It considers identifying and efficiently reaching the poor to be a formidable challenge in many countries, which is where Aadhaar comes into play. The report links the success of Aadhaar to the recent developments in Information and Communication Technology (ICT) which make it possible to implement the identity scheme of such a massive scale which could 'reduce administrative costs significantly and improve targeting.'

Despite the controversy which has marred the implementation of Aadhaar domestically, the programme is now being recommended for adoption internationally as well. The chief economist of the World Bank recommended that the system could be adopted by other countries as well⁵¹. Countries such as Morocco, Russia, Algeria and Tunisia have expressed interest in adopting the Aadhaar model, in full or part. Morocco's attempt to reform its system of identification is being facilitated by the World Bank, which also wants to bring a high-level delegation from Morocco to India to discuss collaborations around the programme⁵².

Rising security concerns in relation to the misuse of this biometric data are largely ignored by the World Bank⁵³, their chief economist Paul Romer believes that such security issues can be resolved by frequent security check by the governments⁵⁴. As of date, about 20 countries have shown interest in adopting Aadhaar like systems for their own counties and are reportedly in talks with the Government of India for the

⁵⁰ 'Ending Poverty and Sharing Prosperity' (World Bank and IMF 2015) <http://www.worldbank.org/content/dam/Worldbank/gmr/gmr2014/GMR_2014_Full_Report.pdf> accessed 29 April 2019.

⁵¹ Madhura Karnik, 'World Bank's Top Economist: India's Controversial ID Program Should Be a Model for Other Nations' *Quartz India* (16 March 2017) <<https://qz.com/india/933907/paul-romer-on-aadhaar-world-banks-top-economist-says-indias-controversial-id-program-should-be-a-model-for-other-nations/>> accessed 29 April 2019.

⁵² Upasana Jain and Amrit Raj, 'Aadhaar Goes Global, Finds Takers in Russia and Africa' *livemint.com* (9 July 2016) <<https://www.livemint.com/Politics/UEQ9o8Eo8RiaAaNNMyLbEK/Aadhaar-goes-global-finds-takers-in-Russia-and-Africa.html>> accessed 29 April 2019.

⁵³ BS Web Team, 'World Bank Gives Aadhaar Thumbs up; Wants Other Nations to Adopt It Too' *Business Standard India* (17 March 2017) <https://www.business-standard.com/article/economy-policy/world-bank-gives-aadhaar-thumbs-up-wants-other-nations-to-adopt-it-too-117031700241_1.html> accessed 15 May 2019.

⁵⁴ Karnik (n 51).

same⁵⁵. This can be of additional concern given that many of these are developing countries which may not have strong privacy laws, or may not even be strong democracies.⁵⁶ Reports regarding the interests of various multinational businesses in the Aadhaar program, and (similar) biometric identity programs across the Global South could also be cause for concern.⁵⁷

Other Digital Technologies Affecting Social Protection

While Aadhaar is the most significant example of the use of technology in social welfare programmes applied by states, it is only one of the pillars of Digital India. The Digital India programme is the Government's flagship programme which aims at transforming India into a digitally empowered society and knowledge economy.⁵⁸ One of the chief aims of the initiative include extending digital connectivity to rural places through the use of high-speed internet networks. The components of Digital India include the development of secure and stable digital infrastructure, delivering government services digitally, and universal digital literacy.⁵⁹

While the list of projects started under the Digital India initiative are vast, they include apps launched for citizen welfare in the field of sanitation, education, governance, healthcare etc. Some platforms such as the 'mygov' portal merely act as portals for dissemination of information by the government, whereas other such as the 'Swachh Bharat App' can be used to report information to the government.⁶⁰

While not as controversial as the Aadhaar program themselves, many of these programs, and the general push towards digitisation of all government services also speak to the same privacy, security and possibly exclusion concerns as Aadhaar. India

⁵⁵ Jayadevan PK, 'India's Latest Export: 20 Countries Interested in Aadhaar, India Stack' *FactorDaily* (10 January 2018) <<https://factordaily.com/aadhaar-india-stack-export/>> accessed 17 May 2019.

⁵⁶ Rohan Venkataramakrishnan, 'Are Countries with a Poor Democratic Record More Likely to Mandate an Aadhaar-like ID?' *Scroll.in* (29 September 2017) <<https://scroll.in/article/851282/are-countries-with-a-poor-democratic-record-more-likely-to-mandate-an-aadhaar-like-id>> accessed 17 May 2019.

⁵⁷ Govind Krishnan V., 'Aadhaar in the Hand of Spies' *FountainInk*. (03 June 2017) <<https://fountainink.in/reportage/aadhaar-in-the-hand-of-spies->> accessed 17 May 2019

⁵⁸ 'About Digital India' (*Digital India Programme*) <<https://digitalindia.gov.in/content/about-programme>> accessed 17 May 2019.

⁵⁹ 'Digital India – A Programme to Transform India into Digital Empowered Society and Knowledge Economy' (*Press Information Bureau*, 20 August 2014) <<http://pib.nic.in/newsite/PrintRelease.aspx?relid=108926>> accessed 17 May 2019.

⁶⁰ Bureau, 'Government Launches Swachh Bharat App' (*BW Businessworld*, 24 May 2017) <<http://businessworld.in/article/Government-Launches-Swachh-Bharat-App/24-05-2017-118764>> accessed 17 May 2019.

does not have a data protection law (the rules that do exist, are not enforced, and are not applicable to the Government⁶¹). Further, internet penetration in India is low, with only 38% of the country connected to the Internet as of March 2018⁶², and if government services are made mandatorily accessible through digital technology only, considerable sections of the population would be excluded from access to such services. While steps are being undertaken to improve connectivity and access,⁶³ the lack of digital connectivity for many is an important factor to be considered at the time of formulation of new policies and laws.

⁶¹ Information Technology (Reasonable Security Practices And Procedures And Sensitive Personal Data Or Information) Rules, 2011. See Smitha Krishna Prasad, Paper on Information Technology Act, 2000 and the Data Protection Rules (30 December, 2017) <<https://ssrn.com/abstract=3094792>> accessed 17 May 2019.

⁶² 'India Country Report | Freedom on the Net 2018' (*Freedom on the Net 2018*) <<https://freedomhouse.org/report/freedom-net/2018/india>> accessed 17 May 2019.

⁶³ Aarati Krishnan, 'How Many Indians Have Internet?' *The Hindu* (Chennai, 26 March 2017) <<https://www.thehindu.com/business/how-many-indians-have-internet/article17668272.ece>> accessed 17 May 2019.