

In India, fear of biometric data abuse

Rahul Bhatia

MUMBAI, INDIA India's Supreme Court has placed strict limits on Aadhaar, the government's sweeping biometrics-based national identity program, but questions about the imposition of technological solutions and privacy remain.

In a major ruling on Sept. 26, a bench of five Supreme Court justices — three of whom wrote the majority judgment — upheld the constitutional legitimacy of the Aadhaar program and ruled that the government could use it to deliver welfare to beneficiaries and collect income tax. But the court struck down provisions that allowed corporations to demand citizen identification numbers for a range of services.

Aadhaar started as a voluntary program, meant only to refine the delivery of public services and curb corruption. But over the past two years, Prime Minister Narendra Modi's government moved to make it mandatory for public and private services and pushed hard to remove any resistance to the program.

India's influential and sizable middle class was rattled after banks and phone companies barraged people with repeated phone calls and emails insisting on their Aadhaar number for the continuation of services. Several incidents revealing the failure of the government departments and the Unique Identification Authority of India — the

agency running the Aadhaar project — to protect citizen data increased concerns about the invasive nature of the program. And not only did the agency running Aadhaar react slowly; it also named security researchers and reporters in legal notices and complaints to the police.

A large number of Indians wondered why Aadhaar was being made mandatory and why the federal officials insisted the data collected through the program was safe despite evidence to the contrary.

The Supreme Court's judgment barring companies from seeking Aadhaar numbers is likely to lull the Indian middle class into believing that it has won and to slow down the movement against the invasive nature of Aadhaar and the government's attitude toward privacy and surveillance in general. Hours after the judgment, Arun Jaitley, India's finance minister, told reporters that it would be wrong to assume that sections struck down in the judgment "are perpetually prohibited."

The importance of the case and judgment was evident from the fact that the Supreme Court heard it over 38 days between January and May, making the judicial review of India's collection and use of data the second-longest case in the country.

The government argued that Aadhaar enabled it to subvert fraud in the delivery of welfare, curb money laundering, thwart terrorism and achieve efficiency. But these justifications did not convincingly explain why Aadhaar was demanded by schools, colleges,

hospitals and insurance companies.

Last May, during a hearing in the Supreme Court, the government's lawyers argued, "You want to be forgotten, but the state doesn't want to forget you," and that citizens did not have an absolute right over their bodies. A minister in Mr. Modi's government remarked, "We have absolutely no problem giving our fingerprints and getting body naked before the white man at all" for a visa." The reasoning suggested that expectations of privacy

The country's highest court has curtailed the uses of the national identification program for more than a billion people.

are unrealistic in a time of big technology, and opposition to national data collection is unpatriotic. This desire to open up the lives of citizens and create visible and invisible links between their spending habits, their voter IDs, the state of their health and how they travel reveals the Indian government's astonishing hunger for citizen data. The evidence of this hunger lies not just in Aadhaar but also in demands made by several government bodies. A federal body that conducts and manages high school examinations asked students to list their parents' Aadhaar number, income, weight, height, birth year and blood group.

The reasons and justifications for Aadhaar and data collection have been couched by the project's backers in the emotive language of country, pride and

security. It is a useful tack because data frequently used in its support have been disputed. A World Bank estimate that the system saved \$11 billion a year was found by the economists Jean Drèze and Reetika Khera to be false. India's then-chief economist, Arvind Subramanian, cited a study showing \$2 billion in savings and later clarified that the savings weren't real but potential.

And what of technology's detrimental effects? After the judgment, Nikhil Dey, a labor rights and information rights activist who challenged the project in court, gave voice to long-standing frustrations of economists, activists and researchers who work in villages when he wished that Aadhaar "had been made mandatory for something that affected the middle class the way the poor have been affected for the last four to five years."

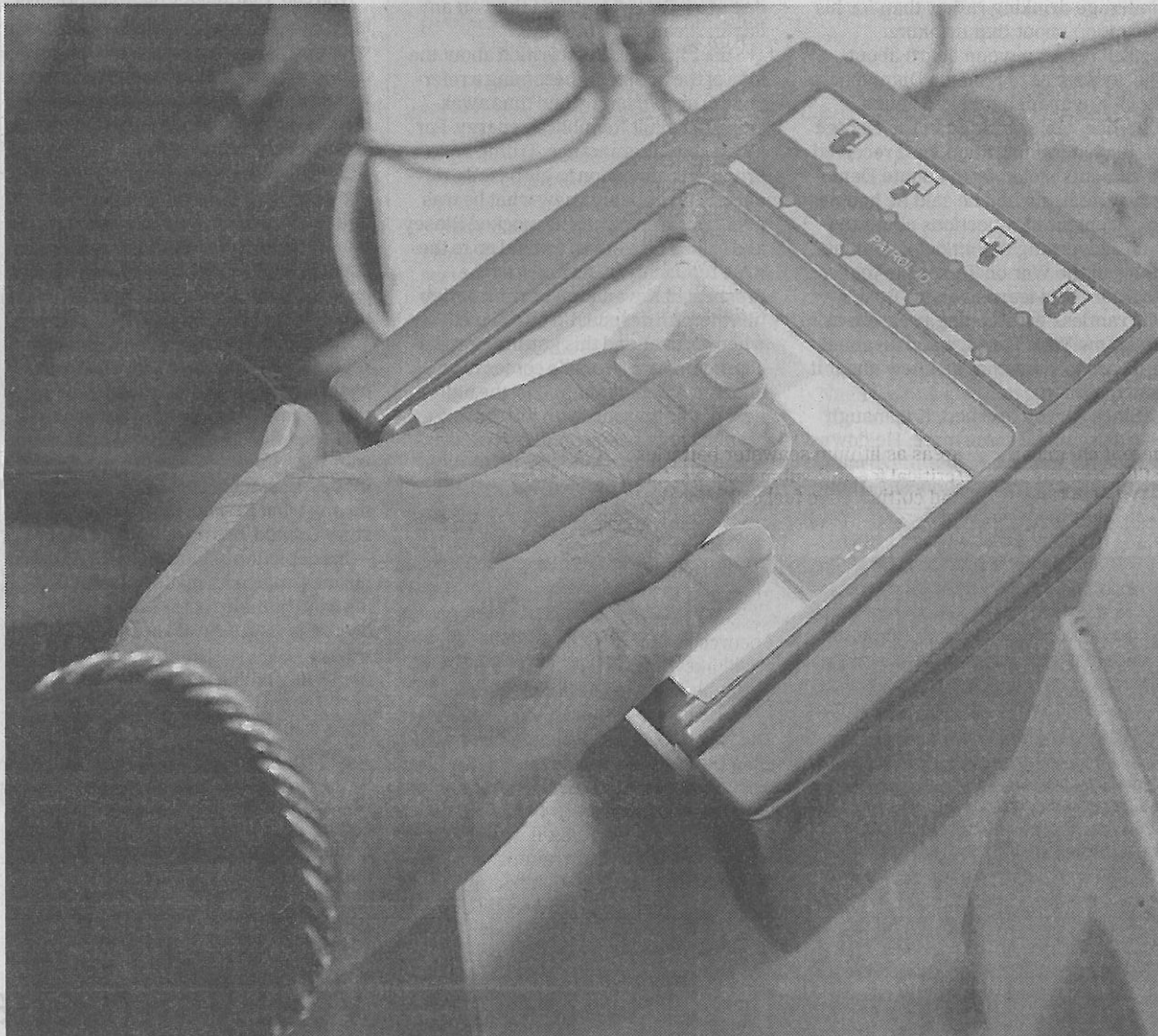
Several Indian states had made Aadhaar mandatory for the poor to receive much-needed benefits such as subsidized food and pensions. But failures of infrastructure and technology cut off large numbers of India's poor from their benefits — the consequences, in the worst cases, even led to deaths from starvation. Activists fear the court's decision to allow linking welfare schemes with Aadhaar will continue to exclude people from what is already a threadbare safety net.

The questions about how the Aadhaar data would be used and whether citizens would be profiled and surveilled became more urgent after a raft of industrialists and government officials spoke about data being the new oil and the financial possibilities of monetizing the data of more than a billion people. At an event in the southern Indian city of Cochin in April, Nandan Nilekani, the technology entrepreneur and founder of the Aadhaar project, celebrated it as a tool for identification to the audience, arguing that "in the digital world, proving who you are is the essence of participation, otherwise you have fraud and fake news and bots and all that."

The idea of Indians identifying themselves to participate online is a dangerous one. Anonymity in India is, as anywhere else, crucial to free expression. Indeed, it becomes particularly more important in places like India, where tolerance for free expression is low. People have been arrested for making jokes on social media and cartoonists have faced charges of sedition.

Supreme Court Justice Dhananjaya Y. Chandrachud, who wrote the dissenting judgment, gave voice to these fears: "When Aadhaar is seeded into every database, it becomes a bridge across discreet data silos, which allows anyone with access to this information to reconstruct a profile of an individual's life."

Although the Supreme Court upheld the Aadhaar program, Justice Chandrachud's dissenting judgment is of great importance. It articulated the nature of the relationship between technology and power and that the collection of citizens' personal information at Aadhaar's scale could be used for surveillance. He was critical of how data was demanded, controlled, and protected. Justice Chandrachud's dissent will be vital to judicial challenges in the future.



SAUMYA KHANDELWAL/REUTERS

The Unique Identification (UID) database system, also known as Aadhaar, at a registration center in New Delhi, India, in January.

RAHUL BHATIA is working on a book about technology in India.