

# We need Aadhaar, not just for phones

While there is an SC ruling, by a smaller bench, on the need to link Aadhaar and mobiles, this is not the real issue

**E**VER SINCE THE five-judge Constitution bench judging the constitutional validity of Aadhaar said, on Wednesday, that the Supreme Court had never directed that mobile phones be linked to Aadhaar numbers—when the government ordered this last year in March, it said it was the result of an SC order—all hell has broken loose and it even looks as if the Court may be veering around to putting various restrictions on the use of Aadhaar in the manner civil society activists are demanding. More so given that the judges have been very concerned over whether Aadhaar data can be stolen in the manner that Cambridge Analytica did with Facebook data.

Though the Attorney General has, since, told the bench that he will demonstrate that the government action had actually followed the SC order—of a smaller bench, though—not surprisingly, many are of the view that the government cheated them into doing something it wanted.

In the Lokniti Foundation case, where the petitioner wanted a means to verify mobile phone subscribers, and the government said it had launched Aadhaar-based e-KYC for new connections—the affidavit said Aadhaar authentication was not mandatory—the bench comprising CJI JS Khehar and Justice NV Ramana said, on February 6, 2017, “in view of the factual position brought to our notice during the course of hearing, we are satisfied, that the prayers made in the writ petition have been substantially dealt with”.

And, on December 15, 2017, the same five-judge bench was dealing with interim orders and referred to the Lokniti order and said, “the process of completing the e-KYC process is to be completed by 6 February 2018”. It then accepted the government’s decision to extend the e-KYC period till March 31, 2018, while making it clear that “the above arrangement shall continue to operate pending the disposal of the proceedings before the Constitution Bench”.

It is entirely possible that the Constitution Bench may veer around to the view that Aadhaar should only be used for targeting of subsidies and benefits—indeed, the Act is called *The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act*. But before this is even contemplated, both the Court and those opposed to extending Aadhaar must recognise the major benefits of Aadhaar, which is why it is being extended to mobile phones, bank accounts and income tax PAN numbers. Also, it has to understand that comparing Aadhaar with Facebook or any such platform is totally erroneous.

■ Most recognise that the fact that Aadhaar biometrics being unique has ensured the 50%+ levels of theft in PDS rations has all but been eliminated. It is true there have been cases of people whose fingerprints are not getting captured and who are being denied ration benefits, but the solution to this is not eliminating a system that is working, but to use iris scans or facial recognition to fix this problem. In the case of LPG, similarly, using the Aadhaar de-duplication software helped eliminate those with more than one LPG connection.

■ It is not clear why this was not thought of when Aadhaar was conceived of originally, but once Aadhaar’s capabilities were obvious, it made sense to extend the use. It is well known, for instance, that there are a very large number of fake PAN numbers. This is important because, under the law, people making certain high-value transactions are asked to give their PAN details; the information is then given to the taxman which compares this with their returns. Naturally, when the PAN are fake, the taxman does not get the data. Mandating the linking of PAN with Aadhaar was the logical thing to do.

■ As part of this process, people have to declare all their bank accounts to the taxman and the earlier way to do this was to link all bank accounts with PAN. But with the prevalence of fake PAN cards, the move turned out to be ineffective. Linking bank accounts with Aadhaar was the logical conclusion.

■ In the case of mobile phones, as the Lokniti petition pointed out, given the fact that terrorists and other criminals use mobile phones—the SIMs are bought using fake IDs—it makes perfect sense to ensure the owner can be traced by using Aadhaar that cannot be faked since, when the purchase is made, a biometric check is performed.

How different is Aadhaar from Facebook, and can its data be compromised? While Aadhaar authentication takes place for, say, a bank transfer, the details of the data do not travel to the Aadhaar server but remain with the bank. Ditto for a ration shop transaction ... So, there is no question of Aadhaar ever being used to profile anyone.

What of the personal data Aadhaar collects like names, age, sex, phone numbers, etc? There have been several cases of these being leaked, including on government websites. This is a bit more complex, though there are obvious double standards being employed since banks or credit card companies are not being asked to shut down for such breaches, nor have companies like Yahoo! or Facebook where even passwords were stolen. While the Aadhaar authorities have been quite pro-active in discovering fraud—the Aadhaar Act specifies penalties for such breaches—they need to continue to be alert, but it is also important to keep in mind a lot of personal information is available even today on many government websites; the Election Commission has many personal details that can be accessed by anyone and even property details can be accessed on several municipal corporation websites.

Restricting Aadhaar usage to just the payment of subsidies and other such transfers for the poor is always an option but it robs the country of the ability to use the robust properties of Aadhaar.

**Supreme Court must appreciate Aadhaar benefits extend from eliminating theft in subsidies to less income tax thefts and without any privacy breaches**