Supreme Court's Verdict on Aadhaar Act, 2016 - Latest News & Updates!

The **Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016** was passed by Government of India in the Parliament. The legislation seeks to provide statutory backing to the scheme of issuing **unique identification numbers** to every Indian resident thereby enabling targeted (direct) delivery of subsidies, services and other benefits to the intended beneficiaries under welfare schemes. Question based on Aadhaar Act can appear in many Banking, Government & Competitive Exams in the General Awareness section. This article will help you the understand the major aspects and latest issues regarding the Aadhaar Act, 2016 as we will be witnessing Supreme Court's verdict on it on 26th September 2018.

Aadhaar Act, 2016

The Aadhaar Bill was introduced as a Money Bill in the Parliament by Union Finance Minister, Arun Jaitley. The bill was passed by the Lok Sabha on 11th March 2016 amidst growing concerns of data safety and mass surveillance. The Aadhaar Act seeks to cut out middlemen when it comes to handing over subsidies. The Aadhaar Card is a tool by which each individual is handed a unique identification number. This Act seeks to use this unique number to identify and disburse subsidies to those who need it. This will ensure that subsidies are not lost to the pockets of corrupt middlemen.

Supreme Court's Verdict on Aadhaar Act, 2016

- The Supreme Court will decide on 26th September 2018 on whether Aadhaar, or the national identity card, violates the fundamnetal right of privacy implied in Part III of the Indian Constitution.
- The five-judge bseda Constitutional bench headed by Chief Justice of India Dipak Misra will pass its judgment on a clutch of petitions challenging the Constitutional validity of the Aadhaar Act, 2016.
- The five-judge bench comprises of Justices A.K. Sikri, A.M. Khanwilkar, D.Y. Chandrachud and Ashok Bhushan led by CJI Dipak Misra. They heard the arguments in May 2018, thus ending over seven years of various challenges against Aadhaar before various apex court Benches.
- For 38 days, the Supreme Court heard 27 petitions that challenged the Constitutional validity of the Adhaar card. There were several controversies and a lot of confusion on linking of the 12-digit biometric number with various government services.

- In March 2018, the apex court had declared that the mandatory linking of bank accounts and mobile phones will stand extended indefinitely till the judgments on the petitions pending before it are pronounced.
- The Supreme court will essentially decide on whether Aadhaar meets constitutional provisions and also whether the government can continue seeking it as a mandatory identification in the name of furthering its welfare goals.
- This has become the "second longest" case in terms of days of hearing after the historic Kesavananda Bharati case of 1973.
- Petitioners were of the view that Aadhaar - built on a mammoth biometric database comprising fingerprints and iris scans should not be made mandatory.
- The huge database of Aadhaar might be compromised and petitioners pointed out that a law that "impacts human life can't remain a law". We recently also witnessed a case where, certain groups claimed to have hacked into the Aadhaar system.
- The Centre had defended Aadhaar on several grounds - the biggest being that it ensures proper distribution of benefits to millions via Direct Bnifit Transfer (DBT) and prevents siphoning of funds.
- The decision of the Supreme Court remains to be seen, which will decide the fate of the Aadhaar Act, 2016 and Adhaar Card.

Major Provisions of Aadhaar Act, 2016

The Act needs to be understood in its parts to understand the issues surrounding it. So without further ado, here is the Aadhaar Act explained.

Why is the Aadhaar Act important?

The Aadhaar Act rests on 3 pillars.
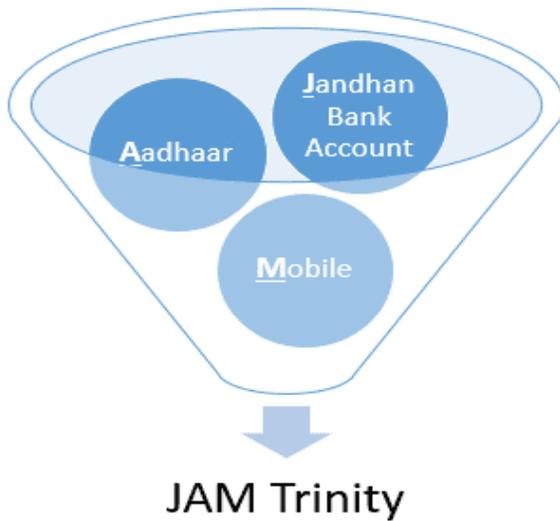
JAM Trinity

- The JAM trinity will provide a strong foundation for social programmes and welfare schemes of government.
- It will develop a social security platform to accurately target beneficiaries.
- It will promote a cashless economy with digital initiatives such as the Jan-Dhan Yojana, pension payments, digital certificates, biometric attendance.
- Also it will provide end-to-end transparency and traceability of various subsidies and benefits.
- The Act tries to address privacy concerns by establishment of Central Data Identity Repository.
- By Aadhaar, government can save thousands of crores of rupees by reducing leakages and corruption.

The overall benefits of Aadhaar will be:

What information will be collected?

The following types of information will be collected from an individual applying for Aadhaar.

- <u>Biometric information</u> - includes photograph, fingerprint, iris scan, or "other such biological attributes" of an individual.
- <u>Demographic information</u> - includes name, date of birth, address and "other relevant information" of an individual
- <u>Excludes</u> - race, religion, caste, tribe, ethnicity, language, records of entitlement, income or medical history.

Who can apply for Aadhaar?

A "resident" i.e. an individual who has resided in India for a period or periods amounting in all to 182 days or more in the past 12 months. **Every resident** is entitled to get an Aadhaar Number by submitting their biometric and demographic information.

At the time of registration the enrolling agency will inform the resident about the manner in which the data will be used, with whom it can be shared and procedure of access.

When do I get my Aadhaar?

The **Unique Identification Authority of India (UIDAI)** will issue an Aadhaar Number to the resident after verifying the data.

How are subsidies linked to Aadhaar?

The Act states that the central or state governments may require a person to possess an Aadhaar Number to receive some subsidy under welfare schemes. A temporary measure can be used to provide subsidies till the person acquires an Aadhaar Number.

How else can the Aadhaar benefit me?

UIDAI may perform verification of 'Aadhaar Number' for other private and public agencies on request in exchange for a fee. This can be used to eliminate a host of documentation for verification purposes such as acquiring a SIM card or LPG connection. This will only be allowed if:

- The requesting agency obtains consent of the Aadhaar holder for verification.
- The requesting agency informs the Aadhaar holder about the nature of information that will be shared upon verification.

Furthermore, there are some restrictions on the sharing of information and powers of Aadhaar.

- UIDAI may share identity information only. It cannot share biometric information.
- Aadhaar cannot be considered for a proof of citizenship or domicile.

Why should I be concerned?

- The government can make the Aadhaar mandatory for subsidies and other welfare benefits requiring you to share private data like biometric information even if you do not wish to.
- Aadhaar data collection is contracted to private agencies which calls into question authenticity, fidelity, safety and privacy of data.
- The collected information is vulnerable to data theft or misuse.
- The Act does not prohibit law enforcement and intelligence agencies from using Aadhaar number to trail a person's behaviour such as telephone and travel records. This could lead to harassment of innocents as computer programs that analyse such data could throw up false leads.
- The Act does not prohibit UIDAI from collecting DNA of individuals.
- The Act does not specify how long authentication records may be stored by UIDAI. These could be targets for profiling individual behaviour. This does not stop an incumbent government from using this data.

How does the Act protect my information?

- UIDAI must ensure the security of information and authentication records.
- **Authentication records** means 'record of the time of authentication and identity of the requesting entity and the response provided'
- UIDAI must maintain the authentication records for a specified period.
- The Aadhaar number holder may access his authentication records in reserved circumstances.
- A District Judge or higher court may force the UIDAI to reveal a person's identity information only and not the core biometric information
- Core biometric information can be accessed only by an official with the rank of Joint Secretary or higher, if the official has an order issued in the interest of national security by the central government.

What are the legal implications?

- Providing false information in an attempt to impersonate, carries a maximum penalty of 3 years in prison and/or a fine of ₹10,000.
- Unauthorised access to the **Central Identities Data Repository**, causing damage to it or leaking the information stored in it, carries a maximum penalty of 3 years in prison and/or a minimum fine or ₹100,000.
- The complaints under this law must be tried under a Chief Metropolitan Magistrate or a Chief Judicial Magistrate, or a higher court.
- No court can acknowledge a complaint under this law unless filed by the UIDAI itself or a person authorised by it.

Footnotes about the UIDAI

Structure of UIDAI

- UIDAI has been shifted from the administrative control of NITI Aayog to the Ministry of Communication and Information Technology keeping in mind the government's 'Digital India' programme.
- It is made up of a chairperson, two part-time members and a chief executive officer.
- The chairperson and other members must have experience and knowledge of at least 10 years in matters relating to technology, governance, law, development, economics, finance, management, public affairs or administration

Functions & Powers of UIDAI

- To specify the type of demographic and biometric information that must be collected for registration.
- To issue Aadhaar numbers to residents and perform verifications.
- To specify the subsidies and various services for which Aadhaar will be necessary.

Audit of UIDAI

- Any fees collected or revenue generated by the UIDAI should be deposited in the Consolidated Fund of India (CFI).
- UIDAI must submit an annual report to the central government detailing past expenses and upcoming plans.

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