



**SDG17: Partnerships for the Goals
SDGwatch Status Report Tamil Nadu 2020
(Data, Monitoring & Accountability)**

SDG17: Partnerships for the Goals
SDGwatch Status Report Tamil Nadu 2020
(Data, monitoring & accountability)

January 2021

Creative Commons License 4.0



Supported by: **giz**

Prepared by:  Human Rights Advocacy and Research Foundation, Chennai



HRF

The Human Rights Advocacy and Research Foundation (HRF) works to protect and promote the human rights of socially excluded communities and vulnerable sections of society, mindful of intersectionality. The Foundation enables these communities to exercise their constitutional rights, amplifies their voice, and enhances their participation in decision making through demystifying laws and state mechanisms, building their capacity, and supporting them to deepen democracy and build inclusive, sustainable and resilient communities. We broaden space for civic engagement and support human rights defenders to promote a culture of human rights to secure a life with dignity for all at all times.



I Introduction	1
II Technology, Privacy, And Data Discussions On Technology, Inclusion, And Dignity	7
The advent of the internet.....	7
... and mobile telephony.....	8
... and 'social media'	9
Fencing the commons	9
Pre-tech.....	10
The ubiquitous data.....	11
... from banking	11
... to health	12
... to people.....	13
... to philanthropy.....	14
How did we get here?	15
The e-governance era	17
Ubiquitous, but amoral, digitisation.....	18
Just one more database	18
No privacy please, we are Indians?.....	19
Ubiquitous ... from absurdity	20
... to a farce	20
Data-fication: from citizens to surveilled subjects.....	21
Spot the human	22
Mobile tracking	23
Goods trickle.....	24
Non-personal data	24
Word screens: Cashless and clueless	25
Real data to artificial intelligence	26



Artificial intelligence, real consequences.....	27
Overkill and false narratives	28
Reduction to bits and bytes	29
SDGs and Data: leave no one behind?	29
III Identity and identification in stratified societies	
— <i>Bezwada Wilson</i>	30
When identity is a curse	30
From personhood to data point	31
Advantage for whom?.....	32
Impact on safai karamcharis	32
Digitisation and dignity	34
No fundamental rights for the poor?	35
Privacy is power	36
Double standards	36
Company policy.....	37
Auditing data trails	38
Public databases, private profit	39
IV Integrating humans rights norms in the 'principles on identification for sustainable development'	40
V Dr. Usha Ramanathan	52





Measure what you treasure', and 'what is measured gets done' are two oft quoted management mantras. It is known that feudal states - of which quite a few still exist globally - are rent collectors. But even democratic governments are used to 'tax and spend', and little accountability. Not having data in the public domain is a very important tool of despotic governments world over, because if the numbers are not known, then they are not responsible for what the numbers mean. If citizens are kept in the dark about numbers, then they cannot hold governments accountable.

The Sustainable Development Goals (SDG) are perhaps unique among government documents in that it goes beyond setting targets but also gives equal emphasis to data and means of verification (Goal 17). The emphasis on scientific data is a delight to practitioners, and human rights defenders, who need data to measure progress and hold the government accountable.

Governments have been made more accountable with the Right to Information laws across the world (sometimes referred to as Freedom of Information), but have increasingly found ways to wriggle out of this democratic requirement. On the other hand, they are increasingly intrusive into even the private lives of citizens, and leading to surveillance states.

In reporting the progress of SDGs in India, the Government of India (GoI) routinely points to Aadhaar for identity, and bank accounts for financial inclusion. Despite the evidence, GoI touts these as inclusion. There are several fallacies in this assumption by the state, and it raises several disturbing questions, with no satisfactory response from the state.





Aadhaar was initially touted rather grandiosely as giving an 'identity' to people, when in reality it is just another means of identification. There is a world of difference between these two terms. An example will clarify the difference. In India, to vote, the citizen's name has to be in the voters list. They can use any government approved means of identification - the driver's licence, passport - to prove their identity. If these were identity cards, then only the Voter id would suffice. As we all know, that is not the case. We can, and do, vote without the voter id card. Then how has Aadhaar become an 'identity card', and a must have for rations? Drawing from the voter example, any means of identification should suffice.

The state tries to obfuscate this difference by using the abbreviation ID - which could mean either - which they then twist to suit their needs. The fundamental principle of a means of identification should be to include, rather than to exclude, especially when it comes to socially excluded communities who are the 'left behind'. If India is to meet the goals, then there is no option but to use all means possible to identify the excluded and ensure their inclusion. Thus far, Aadhaar has been used as a means of exclusion, with disastrous results - the government exults that many ration cards have been cancelled because of ghost beneficiaries, while at the same time there are depressingly frequent reports of starvation deaths due to authentication failure.

The paradox is that the government wants more and more data about the citizens - which now include not only biometric data such as iris scans and fingerprints, but also facial recognition and travel logs - while simultaneously denying citizens information about the government functioning or even the state of the nation. Senior staff from the National Statistical Organisation had to resign in protest, with nary a change in the government.





The government is wilfully oblivious to the cascading effects of its blind reliance on technology, especially when it comes to technobabble of artificial intelligence (AI) and crime prediction. The predisposition of AI bias against SECs is brushed under the carpet by all arms of the state, most chillingly by the judiciary.

There is an urgent need for human rights criteria to be incorporated into design and implementation of the 'means of verification' in SDG 17, and in the evaluation of digital identification systems. SECs are document poor, and for inclusion, self-identification should be sufficient, in view of the discriminations faced by vulnerable and marginalised communities. Strictly limiting the data collected, analysed, and stored, based only on the limited need, with the individuals always having the right to the information held about them in any depository, government or private is essential. It needs to be free of cost on an annual basis, much like the credit scores.

In the above context some of the questions regarding data and electronic identification systems (including 'artificial intelligence') pertinent to fulfilling the SDGs of the left behind communities are:

- a) How much data is enough to identify the excluded and for securing their inclusion? There are several studies, yet adequate policy intervention is missing. Identification should be used to include more people into the safety nets, and to ensure that they get all the support required to meet the SDG goals (which provided the context for this exercise). It should not, at any cost, lead to exclusion of those already within the social security and welfare system, as the cost of inclusion of the 'ineligible' (those gaming the system) is much less than the cost of exclusion of the eligible (the left behind communities).





- b) How much of data collection and information management is rooted in, or even compatible with, human rights principles, and to protect and promote human rights? Presently, there is no mention or emphasis on human rights in data collection or use. The language should address individuals and communities as people instead of users or data points, which tilts away from human rights towards the commodification of people and communities.
- c) What are the assumptions of data collection, especially in the context of big data and artificial intelligence? How does it cope with continuous change - especially those of gender and sexual minorities and stigmatised communities such as the manual scavengers - and their right to privacy? How does technological determinism deal with 'artificial intelligence' that is based on 'data' that is a product of historical bias and discrimination - that has resulted in continuing stigmatisation of entire communities?
- d) How is the access gap due to the lack of Internet and other factors, emergencies, and pandemics like the present COVID-19, floods, hurricanes, among others, being addressed? How will the offline identification documents and systems be used in the absence or failure of the online systems?
- e) How can we ensure that the final arbiter of exclusion will be a trusted individual rather than an algorithm? Increasingly the 'trusted individual' concept is being favoured even by government intelligence agencies. Then why not for the poor to access what are virtually peanuts in comparison?

Given the state of infrastructure and the ignorance, even at the highest levels of government let alone among the community facing





government employees and contractors, these are literally questions of life and death - or sometimes a fate worse than death. These are issues that go far beyond - and far deeper - than the 'politics' of data, precisely because AI gives it a veneer of impartiality, when in reality it is artificial intelligence, often at variance with the truth.

Data and analytics have become ubiquitous and not having a smartphone - a luxury only a few years ago - now means being shut off from even basic services. While the benefits of digitisation and advanced analytics are well documented, the risk challenges often remain hidden from the blissfully oblivious citizens. When the most secure government databases and digital systems are routinely invaded (so often that they do not even make headlines), data opportunity must be tempered with the privacy imperative.

Regulators need to step up privacy requirements, to ensure that security is inbuilt, not an afterthought. The pandemic has brought all these issues into the forefront: privacy, security, and public good (in this case public health). There need not be a trade-off. In fact, experience across the globe unequivocally demonstrates that measures to control the pandemic work best when they inspire trust - through transparency and accountability - and do not undermine data privacy or data security. Opaque governments face vaccine resistance, which demonstrated ethical data usage would have prevented.

Since the SDGs are to 'leave no one behind', the overarching purpose of identification should be to include those left out, supporting the on-ground efforts at inclusion. If that is ensured then we are home safe. Unfortunately, when governments hear identification, they do surveillance for exclusion - defeating the very basis of SDGs. CSOs have a





large role in mitigating such dangers if they are legally mandated (and protected) for outreach and mass awareness creation.

Dr. Usha Ramanathan kindly agreed to help us understand the issues involved, to untangle the various threads so that we could come to a more nuanced understanding of the complexities.

This booklet has the transcript of her lecture, which also has a conversation with Bezwada Wilson, National Safai Karmachari Andolan, and some interaction with those present. The interactions have been slightly edited. The full session is on our website (hrf.net.in) and YouTube (<https://www.youtube.com/channel/UC8ZyiY4bNrtfdBjcARE0Pag>) channel.

The conversations were transcribed by Namithaa, Associate Coordinator, HRF. Brindaa Lakshmi assisted in arranging the session, and also helped to draft the HRF response on ‘integrating human rights norms in the principles on identification for sustainable development’. This booklet is supported by a generous contribution from GIZ, Germany. We thank them all.

Edwin

Director (Programmes), HRF

January 2021



TECHNOLOGY, PRIVACY, AND DATA DISCUSSIONS ON TECHNOLOGY, INCLUSION, AND DIGNITY



I am delighted to be speaking here. A part of the reason that I am delighted is because it has been worrying me that technology has invaded our lives in ways which we have not yet understood. And because we are so busy adapting technology we haven't spent enough time on figuring out what this technology is and what it is doing to our lives and whether we can do anything with this technology that is can we control this technology can we decide how to use it. Can we ensure that technology doesn't take away our civil liberties? It doesn't make the state more powerful than it already is. We have not sufficiently investigated the relationship between the state and technology companies and technology controllers. These are all becoming more and more important everyday.

The advent of the internet

If I were to start with this, when we think about technology, for many of us (I will say 'us' even though I don't use some of this technology) that has been a lot of excitement since the beginning of this century. Till the end of the last century, all of our communication was much slower than they have been in this century. Suddenly in the middle of the first decade of this century we started feeling certain excitement because the internet came into our life and the internet was free. It was something that allowed for immediate and instant communication between people. We did not have to depend upon the postal system and wait for 30 days or 15 days or eight days for mail to travel from one part of the country to another, or one part of the world to another. We could communicate with each other in just an instant (this is with the mail).





On the internet, all kinds of information became available that would have been very difficult for us to obtain otherwise and we stopped having to rely on conversation, on libraries, on teachers, on anything at all for us to be able to get hands-on information. It was a remarkable period. Everybody suddenly found that this information age was proving to change the way we thought, the way we acted, and how we responded to the world around us. So the world expanded at the same time that the world shrank. Our worlds and compass expanded to the whole world and because of that the world shrank in a way that it felt we were able to relate to to all of this world. So that was one major area of excitement.

... and mobile telephony

The other thing that happened which I think is one of our great tragedies is the mobile phone. Prior to that we only had a landline - if we had a phone at all. We would have to be at home or the office to make or receive a call. Many homes did not have a landline. Something that had come along at that time was rural telephony so you could find a phone wherever you went, but you did not have a phone whenever you wanted one. The idea that you could just walk around and talk to anybody and be in touch all the time with whoever you wanted to, was a very liberating experience - in the beginning, even though it was a very expensive experience. Prices dropped, and everybody picked up this phone, and everyone has a phone now.

I would like to pause at this point and have everybody consider this for further reflection. When there is something that is a tool or an instrument and that instrument becomes everybody's possession, be it western or eastern, man or woman (all the women have certain restrictions on that) transgenders persons, and persons from various occupations from the tech world to to manual workers on the streets





and vendors later, how did it happen so in such a short time that it has become a mass hypnosis?

Everybody got onto this like it was a priority-that everyone should have a phone wherever they went and it was not enough to have a landline or to be able to reach your landline for rural telephony, but that each one must have it and must roam around with that. How was this done? What has it done? How did this happen? And what has it done to us? I won't worry about what it has done to us but how it happened to us is very important. This was sold to us as something we need, so we need to understand how much we understood about it when we adopted it. The idea of the mobile phone was a big thing.

... and 'social media'

The third thing is social media. It is another thing that, all of a sudden, we know now, that has gotten so complicated that you don't know whether to love it or hate it. You can't leave it and you can't be happy staying in it.

Fencing the commons

What has happened with all these technologies, especially with the internet, that what was free and open, is that it started becoming closed spaces. For example, when we talk about forests or land, the closing or fencing of the forest is one way with which you start a change in relationships of people with forests, and decide whether people could be legal or not, whether they entered legally or illegally, if they were not entitled to do so. The idea of ownership and the idea that the space is mine exclusively and not anybody else's, the commons started changing.

A very similar kind of thing happened with the internet, with the web, and you would find that various companies that came and started





closing this up. Monopolistic companies therefore control many of these spaces. This space is now the most contested idea that you have across the world, not just in India. In countries where they feel they have the power to challenge the corporations, there are many challenges going on. In America, the Congress keeps hearing it, and in Europe, there are so many cases in the court; the European parliament is considering what to do about these companies being monopolies as well as the controlling entities for people's data.

They don't just control their empires but many spaces of the internet. Why does that matter? The scary thing about this fact is that all of these companies are not just tech companies. Technology companies today, such as Google, Facebook, and Amazon work on the idea of data. In all these years that we thought we were getting free goodies from these companies, what they have been doing is collecting and harvesting our data. They know us today better than we know ourselves. That is the extent to which these companies have our data, and therefore have an ability to control the way we think, control what we will do, how we will give ... and many of the things around us in the world.

Pre-tech

If you look at these companies for technological advances, we had the oil revolution and the industrial revolution. Oil companies and oil magnates were among the richest people. At the top 10 richest people, there would always be one pharmaceutical company, and you will have these oil companies. In this century, they have started being displaced by technological companies. Today at least five out of the top 10 richest companies and the richest people will come from the technology field, and this is very important for us to understand for two reasons. One is the difference between all companies and these tech companies.





Oil companies dealt with oil, and also dealt with other commodities. For instance, Rockefeller realised that there would be oil-based pharmaceuticals, such as medicine being made based on oil. He was the one who brought in the idea that all forms of non-oil based medicines that existed prior to such pharmaceuticals should be considered alternative medicine only.

So, the dominant narrative, and the mainstream changed accordingly. The dominant paradigm changed as Rockefeller wanted it due to his interest in oil. To that extent there was some movement that happened. But broadly most of the oil companies stayed largely within the area of energy and what you do with it. For instance Exxon or Shell, if they expanded outwards, it was partly at least through their philanthropy and not in their main business. It is not like what you see in the tech industry.

The ubiquitous data...

Everybody adopted mobile phones. We used to have a desktop for a family to share, but everybody suddenly had laptops which only one person will have and you were suddenly carrying everything wherever you went. We did not understand that we were generating data at every point. We thought we were having facilities and were excited at the thought of it being offered to us. We did not ask questions because we did not know those questions existed.

When you look at Google or Facebook or Amazon, you will find that because they control data and access anything that goes through the system, they *keep* anything that goes through the system. They use it to interpret things the way they want to interpret. They find the things that when they interpret, they have shown a deep interest in not only providing technology, but getting into a variety of fields.





... from banking

One such is the field of finance and monetary systems. So, getting into banking, the idea of fintech companies, the idea that everything should be cashless is not coming from people who are dealing with money. It is coming from some people who are dealing with technology who want to take over the money systems. You should be converted into data. So you find that they are interested in money systems, therefore in the whole idea of money and how the money should move, how money should be transacted, in what form these banking companies should remain.

You may want to remember this term 'digital footprint'. Because in this cashless environment, a very important thing for them is that when we go cashless, every time there is a transaction we are leaving behind a digital footprint which becomes a way of understanding each person and understanding across classes. This is an extremely significant area in which they are functioning.

... to health

The other area we are seeing all around us today is health. They want us all to have a National Health Stack and a National Health ID. They want us to navigate our health only through these systems. So the idea that the digital should invade and take over this health space. Now, when I say this, we have been talking about creating a vaccine, that is a different story we won't go into right now - but within that, there is one area that has become very important.

With tech companies, they have become part of every government programme, everywhere in the world. Their access to governmental power is huge. So when you have Bill Gates saying that he has an interest in vaccines, to governments and the world in general, when the vaccine





comes in, every person, in a total upwards of seven billion people in this world should all have to take this vaccine, every one of them, it may be a single or double dose vaccine, or a yearly booster.

Nobody, as of now, knows what this virus or whatever the organism is about. But it has been decided that everybody should have a digital certificate that shows that they have been vaccinated. If you want to step out of your house and go into a public space, they can ask you for your digital certificate, which means that you don't have to carry anything with you. It is virtual and anybody can track where you are at any point in time. Think of this as Aarogya Setu multiplied by thousand.

What is the kind of ambition they have within this. They are reinforcing the notion that health can only be operated and managed virtually and digitally. We are therefore going to intervene in this space. We need to understand that we are at a phase now of data-fication of people. We can't only think of this from a point of technology, we also have to look at it as the data-fication of people. The third area the day when wanting to get into, and they have gotten into is education. On how you are going to educate children, and what you will educate children in. If you take a look at the national education policy you will find that coding is very important and all children have to get trained in coding. It is not about whether or not coding is a good thing or a bad thing but coding basically is only contributing to the menial work for these big technology companies.

... to people

The CEO of the world economic forum, Klaus Schwarb states in his book, 'The Fourth Industrial Revolution' which is about technology, how the world is going to go digital. You will remember that in our country when Nandan Nilkeni started promoting the idea of the UID,





and everybody having an ID and putting that ID in every database, the way that he spoke about every citizen was that of a digital citizen. It has very serious and deep implications so we have to understand what this idea of a digital citizen is. So when it came to education, this is not unique only to technology but there is a way in which every crisis provides opportunities for corporate entities.

The book 'Gone with the wind', is the story of the American civil war. The main character Rhett Butler made his fortunes during the civil war because there were so many embargoes. He ran the embargoes and made his money. Superheroes are made not necessarily through good intentions or even good actions. Heroes are made in multiple ways and we should remember that when we are looking at technology companies and the people it has produced.

... to philanthropy

The other thing to remember about this is that because technology companies today are the richest and the technology controllers who are individuals are also among the richest, they control philanthropy. They are the ones with the maximum amount of money to decide where they will put it in for philanthropy. The connection between philanthropy and business interest and profitability is not very far to see. If you look you will see the kind of things that are being promoted by technological controllers.

For instance, when Gates comes to India to Bihar to do a health programme, people who worked on that project would say that he did collect all the health data from all of us. When you are to do work with anyone you have to submit proposals and provide data and the proposal itself would say that you will do a kind of data collection that becomes accessible. Various systems are put in place through this





philanthropy. We need to remember that when we take money for work. We need to keep in mind who is giving us the money, what their interest is and investigate it before we decide if it is ok or not. This is the fundamental action that will have to do.

How did we get here?

I came into this because I was working on the UID, and I will not call it aadhar, because it isn't. Except that it is not unique but we will worry about it later. The CID project was brought in at a certain point but before that I will go back in time just a little bit, and say why is it that we are in the place where we are right now.

US, Australia and Europe started digitising all their data in the 1960s and the 1970s, while we still had everything in notebooks and ledgers and what not. In the 1960s and 1970s, every little thing stored required a lot of space. So when they were recording dates, what they decided to do was to cut out two numbers; it would require that much less space to maintain it. Instead of storing 1969, they recorded it as just 69. For the next few decades, all was well - the dates kept changing without including the first two digits. When it came towards the end of the century, suddenly panic arose.

I am very curious to know who started the panic. I haven't been able to find it as the documentation for that is really not very good. But the panic arose and some of the technology companies, especially Indian companies, were at the forefront. If you read the reportage at that time, you will find that Indian companies earned 40 percent of their revenue by providing services to fix the Y2K problem (this expands to the year 2000, the 'k' stands for 1000). The reports also show that the companies became rich because they were able to use cheap labour. So the Y2K problem needs to be resolved using lots of manpower and new





programmes created to change this system. Otherwise the banks that had adopted digitisation and computerisation and calculated interest rates automatically through these programmes, worried that when the year turned to 2000, instead of calculating the year, it would go back to 00, and the interest would be calculated at -100%. The system of complex calculations would collapse immediately.

Many companies and governments had to work together to set this right. The fun part of this, I don't know if I can call it fun, is at the end of all of these there were some who had done it, and made the change and some who had not done it. Nothing happened to either. Those who did not need the change, their systems did not collapse, those who did make the change, their systems didn't collapse either. So was there really a problem or was it something fake, created to induce panic and make people invest on changing the dates? This is all in the reportage of the time, and it is from National Geographic. I found about 60 sources and I picked National Geographic because it has an authenticity that many others may not have. This is what happened then.

Soon after the Y2K problem was identified, they also found another thing - that when we talk about startups today, which mostly is digital startups all the time, they started at that time what is known as the dotcom business. Any website which ends on a '.com' makemytrip.com, many companies started this business. I will not go into the specifics of how the dotcom business works, but I will say this much that when the dotcom business started, they were not interested in making money immediately. They wanted that it should become a monopolistic business of a few which meant that you have to do away with the competition, which means you have to undercut for a certain period of time, and provide services at less than the cost, and anyway the cost of





the net was not very much. Many companies came up during that time and around the beginning of the 2000s, as their stocks peaked. In 2002, their stocks crashed. It is called the dotcom bust. This happened in about October 2002. Everyone could see that it was coming. Around this time you see that e-governance starts.

The e-governance era

I told you all this because we all are in the e-governance era now and we need to understand what e-governance means. Many of the projects that are coming in now are what are known as 'mission mode' projects. This is the other thing to watch out for. In 2002 it appeared that the European Union had a meeting in Lisbon where the companies had appealed to them saying that with the dotcom bust the technology companies were going to collapse. There was no further business.

They had to create a business. That is how they started negotiating with the governments saying, 'if you adopt our technologies, you will gain and we will gain'. How will the government gain from such an arrangement? Because it will have control over the people. Once you make everything digital, the control shifts to the person who has all the data. Today when we look at the way everything has been made mandatory, coercion is used by our state in context, to say you have to put your number everywhere.

UID came in as the first step, but it has gone on into multiple avenues such as the National Health ID. After saying you don't need any other ID, we are now being told to make one more ID and link your UID with that. Create an additional digilocker which is only operable by UID, and you put your documents into that.

This creates new business and that is how they started negotiating with governments saying if you adopt our technology you will gain and we





will gain. The state will be able to get all the information it wants about the people. They called being able to do this 'action with ease'. But ease to do what?

Ubiquitous, but amoral, digitisation

We must now remember that there is moral, immoral, and there is also amoral. Profit is usually amoral. Unless people are aware, conscious, and decide that they will only accept moral profit, a lot of the profit that is being made and the control power that is in people's hands are in the realm of the amoral. It is neither moral nor immoral, they don't care about the way, that is what it means.

When we are looking therefore at what happened after that, we find that the first thing we have to understand is computerisation. But it starts with digitisation. Even today you will find they keep saying digitise digitise digitise, put everything on a computer. If you go to an ultrasound centre, they say that the centre has to have digitised equipment.

Our data will remain on that database. That data will be used in any way they desire. Digitisation is a way by which data passes from the owner to other systems which then can share and transfer it, change it, and transact on it in multiple ways. So digitisation was the first step. On the surface, it was an innocent project but digitisation just meant transferring what was in other ledgers on to this.

Just one more database

But if you look at the national knowledge commission you will find that they are all saying, we are not interested in all these. We are interested in creating new digital systems and that is the kind of data that we want to harness.





So you find that, from a time when documents existed which would provide information about systems, digitisation meant that somebody is going to have systems of information on individuals. This is a significant shift that happened in our form of digitisation.

After digitisation was the ID. All of us know the story of the UID so I will not go into it. When the UID project came in, they first said it was voluntary, and then they said it was mandatory, and then they went to court and said people in this country don't have a right to privacy...

No privacy please, we are Indians?

... and I want to pause there because I will have to share this...

I find it extremely funny that the government went to the court, and the UID was a part of that, to tell the court that the people of this country don't have the right to privacy. They needed to say that because the UID project cannot survive the test of privacy. There are many stories in between where we find that in the end nine judges resoundingly said that the people of this country do have a fundamental right to privacy.

The right to privacy is inherent in us. It was not 'given' to us and therefore it cannot be taken away. This was the resulting statement made by the court. You find that ever since, you find the proponents of this project, including Mr Nandan Nilekani and Mr Ramsewak Sharma, say that because of Aadhar this judgement came - as if Aadhar went and got this judgment for them. As if this judgement was a follow-up to the UID project.

But the reason it came because of the UID project was because of the violations of privacy in a way that when people challenged it and went to the court and said that the fundamental right to privacy did not exist. The court rejected their arguments outright. They now say that it is





because of their project that we have fundamental rights. Think about all the ways in which this mythmaking happens.

Ubiquitous ... from absurdity

Then you have the idea of ubiquity which means that it should be everywhere. In many of the systems with which some of you are engaged, biometrics is being made necessary. For instance they have made it mandatory for rations. There are different kinds of entitlements that people have for which the government demands biometrics.

They started using biometrics and they decided to adopt it without knowing whether biometrics can work in this country. They knew this much in the beginning: they knew that manual workers, old people, very young people, and people with various forms of disability, find themselves unable to use biometrics, as they cannot be preserving their hands by putting creams. This can cause an issue while trying to record a fingerprint, and could be a problem at the time of authentication

But if we have all 10 fingers and we have both the irises, the photograph and the demographic information, we may be able to enroll them and give them a number. What was unique about this project is not biometrics. They knew nothing about biometrics and it is still failing. They are now proposing one nation one ration, which is being proposed on the basis of the UID and they have letters and circulars that have gone out saying that collecting your rations depends on the UID and on fingerprints.

... to a farce

They are now saying that they are getting reports stating that fingerprints are not working for some people and they have now created a system where they appoint a nominee using biometrics that will be used to identify you. You think about what that means.





It means that I cannot identify myself through my identification because the scanner cannot capture my fingerprints, and neither does it work to get the fingerprints of my family either. So I will nominate somebody whose fingerprint hopefully will work, who will then identify me through their biometrics.

This is an absurd system and there is a lot of literature that restates this fact. A lot of the documents that are being produced by the UIDAI themselves say this. We need to therefore know and understand this, both for the purposes of challenging and for accepting this.

Biometrics are not unique here. Unique is about the number which they need to identify for every individual. That is where their interest lies. They want such a system to be present around the world.

Between this project and something such as the digital certificate that Gates is talking about, the imperative is to cover the world and make every single person in the world uniquely identifiable. Such ambition - even if it is from the best of us - you can't expect such power to remain innocent for long even among the best of us.

Data-fication: from citizens to surveilled subjects

We can now talk about data-fication. To do so, we have to discuss digitisation, ID, and ubiquity of these databases and the convergence of this data while creating new databases simultaneously. We are well aware of the socio economic caste census, the National Population Register, the crime and criminal tracking system, as well as the National Intelligence Grid (NATGRID). These are all national level databases. In the state level, state governments have their own means of keeping records and tracking individuals.





It is the system where the ugly side of ambition raises its head, where entities ask the state to demand people's data and ask people to become documented, where being documented is the only way of confirming your existence as well as becoming reporting citizens. We will have to keep reporting to the state on a regular basis. This is the kind of imagination with which all of these processes have when brought in. And then it comes to data-fication.

The Institute of Human Obsolescence is an institution set up by a French artist who actually challenges many of the ways in which we have been data workers. Even if you walk with a mobile phone somewhere or if you leave it somewhere you are generating data all the time. All of these behaviours whether or not you bring something or put something away say something about you.

If, for instance, I don't open my laptop for three days, it says something about me - and there will be questions asked about it. They are looking for what individuals are doing and they are looking for being able to create patterns. What is of interest to them? The Institute of Human obsolescence works on the premise that human beings and human labour has become obsolescent which means it is obsolete and no longer of any value.

Spot the human

We now have to create new value for our existence. One example that is being used is that, between the periods of the nineteenth and the twentieth century, the photographs that you would find within this short period include one of a New York street with loads of horse carriages. The question underneath this picture is 'spot the car'. As there were so many horse drawn carriages, there would just be one car in the picture. Another photograph of the same place a few years later





full of cars was tagged as 'spot the horse'. Like it happened with the horse which went obsolete, human labour is also becoming obsolete.

We now have to recreate ourselves. When you look at what is happening in the world around us, there is an extreme amount not just of unemployment but also unemployability. We can't be employed in many of these places because we know nothing that is relevant to the systems.

In this fourth industrial revolution that is being discussed in the book, manufacturing doesn't really have a great place. Farming doesn't have a prominent place, agriculture has become something else. It is technology that is going to be controlling and deciding what will happen to any and all of these things.

I also read recently that every single well is going to be identified uniquely and given a number. This is the kind of imagination that is running in datafication. The proponents of UID said that surveillance was not at all in the cards and it was impossible to surveille anybody using UID. We now know that this is not true. we know that when you put your number in every place it becomes easy for convergence of all these data and putting all this information together.

Mobile tracking

In fact it is not just the UID, it is the UID and the mobile phone. The mobile phone has become even more ubiquitous and you are constantly being told that you have to give your mobile phone number to system after system after system.

The cause of the battle was the case where limits were put in and it got messy for them. So they have now shifted to mobile phones. They want your mobile phones everywhere now. Your tax will have it and so will





your shopping. Any Health Care institution you go to will need your mobile number as well as at a courtroom. Just to say that I don't have a mobile phone will find a person in a state known as civil death. This means that if you can't produce yourself through this system then you don't exist in the system.

Goods trickle

The imagination that exists and why they want things to exist the way they do, is partially disclosed in the India 2018 economic survey which has a whole portion on data as a public good. In 2018 when the Srikrishna Committee gave its report on data protection, by then privacy was a fundamental right.

That gave them the point that everybody has to contribute to the public good which is sharing of data within the community. The community will then convert this into a good economy and therefore this data pertaining to individuals would trickle up to the reservoir of metadata. Mr Nilekani was also a proponent of the trickle down theory which we find not very accurate. This is the reason why we have to bring in a whole welfare system because it was not happening on its own.

They see that people in this country don't have wealth but they have something that they can contribute to the economy - and that something is their personal data. You will have to allow your personal data to flow upwards so that the data can be converted into business opportunities.

Non-personal data

There is now a new concept called non-personal data. According to this, if personal information is already present in the public domain or if it can be anonymised, then it does not belong to the individual and is





therefore considered non-personal data. They want to be able to make businesses by using this data.

Those of you who have worked on various issues pertaining to land rights, water rights, mineral rights, and tribal rights, we know that each of these - whether it is land, water, or minerals - are considered to be natural resources the state wanted to harness. We know the number of battles we've had in not allowing these forms of exploitation of all these resources. The latest free source which they say is natural and inexhaustible, which is completely unlimited unlike land, which can only be used by selective individuals, is data, which can be and is generated by anyone.

Word screens: Cashless or clueless

Data is now the remarkable resource they all want to use and business, that is where we have come now. The kinds of words we need to watch out for - such as when they discuss faceless income taxes, as if it is a good thing - show the three things we need to look out for are cashless, paperless, and presenceless.

Cashless is in the money field but the other two are expanded into other territories also.

Paperless, for those of us who are working on the right to information (RTI), we already know that paperless is a no-no, and has already presented itself as a disaster, because that means that that is no track or trail of information and we don't know what is happening.

Presenceless means that the government is not interested in the individuals and is only interested in the data an individual can generate. You are welcome to stay presenceless but you need to keep sending your data because it is the data we want to engage with.





Real data to artificial intelligence

Why is all this leading up to artificial intelligence? Artificial intelligence is not new. Artificial intelligence has been in the imagination for long, and in small ways even implemented since at least the mid 20th century. Many science fiction works are based on what is to happen and all of us have read those stories because they are very exciting.

The idea of the robot and how there is a machine that is able to acquire the traits of a human being and the emotions of a human being and the mind of the human being, these are all the things we have read about as well.

The fact is, artificial intelligence (AI) cannot exist without data - lots of it. You can't have AI without data about real intelligence, real activities, and real things. increasingly, they want to know about things that are being thought about. AI therefore needs to be fed like the voracious consumer of data it is, and gorges on this data to produce output through algorithms and machine learning. AI can only exist in the presence of enormous amounts of data.

People often say that technology is value neutral and it is neither good nor bad. people only make it the way it is. Sure. But it is people who decide how technology like this is going to be used. This same technology could have been created in ways which were enhancing people's rights. If they had privacy and encryption built into the systems, if it weren't looking to take more and more data from people into the objects, it would have been a different kind of technology. We would have when walking around with a mobile phone without feeling that somebody was always watching us.

This is the deliberate way in which technology has now found its way where everybody must have the required technology. It should all be





registered everywhere as well. All your documents have to be placed in a specific digilocker. Your health documents should be available for any healthcare provider to access.

Artificial intelligence, real consequences

When we consider liberty, every person has rights. We have rights for ourselves and rights against the state. We have rights that state that other people cannot interfere with those rights.

Some of these rights we have fought off because we found them to be against civil liberties also. For instance in a housing society we can have only one type of person - such as only vegetarians will live in one housing society. Since vegetarianism has not been put into the constitution, a battle has not been necessary. But when they say only Parsis can be there, only Hindus can live in a certain society, these are not constitutionally acceptable. We have fought these battles and we have said that we will not allow this kind of thing to happen.

Now, with data-fication, and with artificial intelligence, those controls get taken away. For instance the extent to which we have mental health issues, I would hesitate to go to a doctor and ask for help if I felt that the information given in confidence to a doctor is going to become data that is going to cause stigma. When they say that they are anonymising data transfers it is clear that any data that can be anonymised can be de-anonymised which means you can reverse that process. Why would I take this risk?

When labels were stuck outside peoples homes saying there is a covid patient inside, there was widespread stigma. People resisted because nobody wanted stigma attached to them. There are many among you who will have stories about what this means.





So this idea of artificial intelligence, we need to understand in two ways. First, as something that can only exist when there is a large amount of data. Secondly, those represented within this data are treated differently from those who are not, and those who don't have access to do so.

Overkill and false narratives

When I was working on my DNA bill the CDFD in Hyderabad received forensic material to work on from the scene of the crime. The document that they produced required the suspect's caste to be furnished. Why is the caste of this person relevant to the DNA test? They did not have an answer. This proves to us that the technology controller will decide what information to collect and when it is possible to converge all this information.

Your refusal to provide information has no meaning. The way they have pushed this narrative to say that privacy is dead is false. The second thing that they say is that consent is broken - that there is no solid narrative around the idea of consent so we do not have to obtain any, and that we do not need consent regulations.

They have instituted such a narrative to ensure that our liberties are constantly being whittled down saying that they are unimportant. They do so by characterising people of countries, especially our country, as people who are in possession of black money, money laundering, who are corrupt, and also terrorists. It is therefore in this way that an entire population has been deemed not worthy of having these rights. This is being propagated by a certain set of people who have a specific set of technologies.





Reduction to bits and bytes

Going back to the document by the Institute of Human Obsolescence, on the first page it says that many of the ways in which human labour has been provided is currently becoming redundant because of the way in which technology is taking over. So you will have to now reinvent a way in which labour will become relevant again. To happen, labour will have to earn its wages. The document defines that one of the great ways of doing this is to create a contraption which has the technology to siphon body heat in order to power blockchains and cryptocurrency. It implies that being human is to be reduced to nothing but a warm body and a means to generate electricity.

SDGs and Data: leave no one behind?

Something very interesting when we talk about leaving nobody behind, is that the United Nations today has been putting a system in place for ID purposes. The committee that has been working advising on it contains technology companies and their contributors.

The definition of Identity in the ICCPR implies and explicitly states that the document is relating to income tax and definitely not about reporting oneself to the government at all times.

I think it is time for us to open discussions with the UN to ensure that they see what is going on. What they are doing right now is destroying the rights of people while taking business minded advisors. That is a very dangerous place to be in.



IDENTITY AND IDENTIFICATION IN STRATIFIED SOCIETIES

- Bezwada Wilson



Usha: *Wilson you came into this very very early as soon after we knew about the project. You said that this is the project that you will definitely not be a part of. Please explain to us as to why you decided to do so.*

Wilson: It is very difficult for me, after hearing such a detailed explanation on datafication and digitisation, to add many points and further explain this concept. But I can tell you this - that the condition is worsening by the day.

When the discussion on UID began, the authorities stated that it was only being focused on for the purposes of identification.

Even when you are on the road and you see vehicles, there would be stickers saying, 'Singh is traveling', or 'Sharma is traveling', or 'Reddy is traveling'. We often hear people say that nobody sees caste these days but such signs are everywhere. Now even Rajputs and Gujjars have started writing this.

When identity is a curse

In this situation there are certain groups of people who are oppressed and marginalised socially, economically, and politically. Such people are struggling with their identity, for example manual scavengers. I don't want to brand every person from my community as a Thoti or a Banghi- I am fine with that identity but many children are really afraid of their identity being exposed in school because of our highly problematic caste notions.

Caste is nothing - anybody can talk about their caste - but we have a hierarchical notion about it which actually promotes every form of discrimination and violence that is happening to even children. In this circumstance everybody wants to bury their identities.





A woman who is tasked with the removal of human waste said that they don't want to be identified within that profession and would just like to identify as a citizen of India and therefore to remove their information from publicly accessible databases. But if this data becomes government property, this identity of this person will never leave and will become solidly defined in the next three to four generations also.

You will have access to private information regarding who performed what form of sanitation work and who was a manual scavenger three generations hence. How are we going to bury this identity?

From personhood to data point

Secondly, the datafication and the numbering of people is equivalent to making these people mean nothing. It is the symbol of slavery and makes it very easy for others to dehumanise them. If you turn persons into data using an identification number you are totally ignoring the self respect, dignity, and the most important values, which are equality, liberty and fraternity which are guaranteed to us by our constitution.

You cannot give values to those numbers. You cannot give self respect to numbers or data. But we know that due diligence is required by all the human beings to live in this country. Everybody should be able to live with dignity and self-respect. But when you compare these human beings and turn their sovereignty into that of a number, the point of thinking about equality is now moot.

Our society is now at a point where all of these values have been turned back and have been therefore lost. This in turn has destroyed the society using the caste system throughout our lives and for the past 5000 years. We are making our efforts to come out of this struggle but this datafication makes our jobs much harder and we feel that it is pointless to struggle the way we do.





Advantage for whom?

Every technology has its advantages and disadvantages. But the question remains as to for whom is this an advantage. Those who invest in the technology, and those who create such technology, stand to gain the most from the implementation of that technology.

They want to reap the benefits of this technology and therefore the most marginalised have the most to lose. They say that when development comes as Usha mentioned, with the trickle down and the trickle up theories. The implementation of these theories happened the most in this country and we have a lot to show for it. India has so many billionaires whose income is increasing every single day during the covid lockdown period while our GDP has gone down. Our prime minister then says that after the demonetisation the benefits have outweighed the negative consequences.

According to the World Bank and the Reserve Bank of India (RBI) data, 99.3% of all of the unregulated and illegal money transfers are back to functioning the way they did before demonetisation which clearly means that the move has not worked out.

In this country, no matter what you say or do you can still survive because there are not many fact checkers to put you in your place. You are now joking with the lives of those who lost their loved ones and jobs in the queues and the banks during this heinous time. Who benefited the most from such a programme anyway? Wasn't it the rich?

Impact on safai karamcharis

Before closing, I want to make it very clear that it has affected the safai karamcharis (sanitation workers) very adversely.





A year ago, in Ambala, all the sanitation workers were tracked using a geo-tagging method with a smartwatch like contraption. The watch would track the position and the movements of every worker at all times and feed it to their supervisors as well as the municipality. Now the Ludhiana municipality has decided to implement the same programme and the district magistrate is waxing eloquent about what a good idea this.

When we domesticate animals, such as cows, we tie them up using a thread to make sure that they are with us and don't run away. Those cows have no right to go anywhere, even though we have made them into something great now. The way we treat people now looks like the way we treat domesticated animals.

Safai karamcharis have been made slaves, and the municipality is tracking them on the basis of how much time they are working, where they are at any given moment, when they are starting work, and when they are leaving.

What is slightly different in Delhi is that they have cameras now. The supervisors are now coming with their cameras and they photo-document people as they are working on their designated spaces and they have to WhatsApp the documented evidence to their supervisors. This is dangerous and problematic.

Another important fact to note is that this practice exists only for the Safai karamcharis and nobody else. Anybody who works provides a service in exchange for monetary compensation. The question about why this practice exists only for the monitoring of Safai karamchari and not the prime minister's office documents has to be asked. Imagine that there is a file that is to be transferred within one government office to





another, can you imagine somebody putting a geotag on the briefcase to monitor how it travels through the parliament and how it reaches the secretary and whether or not work is being done effectively?

How is it acceptable to track and monitor safai karamcharis if it is not acceptable to do so with the other? They still have not paid the safai karamcharis four months worth of salaries. Could you put a geotag on where the salaries are going every month?

In the name of digitalisation the government is choosing to suck out any remaining blood that they think exists within these bodies, and making people more and more vulnerable. Why aren't they introducing the geotag in ration shops? They have only chosen to introduce such a practice on the most marginalised people working in the most heinous of environments, and that is the inhuman style of this country to make people clean their filth. Now they are being tagged instead.

Digitisation and dignity

My question is, what barbaric ideas do we have? How inhuman are our thoughts? The digitised way is just plain mean in the way it treats human beings. As of 26 January 1950, on the one side exists the sovereign citizen of this country, and on the other, exists the digitised citizen of a country where the rich and the tech-controlling rulers harvest data from them.

There is now a big war that makes us take sides. We need to ask ourselves on which side we are to be. Because, if there is no sovereign citizen then there is no sovereign country. It is not just the way in which human beings are digitised, but our constitution in itself and everything that it values is at stake here. We have to take this very seriously.





As Usha talks about digitisation and how data gets controlled and used human labour is also going to be the same. I feel afraid all the time about how society, in the process of development, functions right now. I am concluding here to say that we must stop the government from becoming a digital controller.

No fundamental rights for the poor?

Usha: Wilson I will have to ask you a question here regarding what Ramsevak Sharma spoke about yesterday to say that privacy advocates are taking efforts to stop them, and that privacy should not come between a person and their dignity. And that digitalisation was giving people dignity. As civil society and people who are working in these areas, we cannot allow them to continue this narrative and not counter it. It would be great if you are able to help us out in finding ways to counter this narrative that they perpetrate.

The second question I wanted to ask you is regarding the judgement and your case the judge said that for welfare, for those who don't have socio-economic rights, for them it is acceptable not to give privacy because welfare is more important than privacy. They also stated that you can mandatorily have the UID number applied in places where it is a question of the state giving something from the consolidated fund.

When your case was being heard, and all the notifications were being issued, stating that if a person with disability wants to get disability aid, they have to enter their UID number into the system so that it can be seamless transactions. What was it for manual scavenging? If you don't put in your number you don't deserve rehabilitation. when they spoke about women that were rescued from prostitution and forced sex work, if you don't enter your ID number into the systems, decided that they were not entitled to the rehabilitation package. So, the most vulnerable





of the people are those who are entitled to what this state is to give them so they can survive.

Privacy is power

Wilson: As you can see, dignity can't be putting a tag on human beings and anybody who does so cannot talk about dignity. They try to leverage welfare schemes making sure the people give away their own privacy. We must understand that welfare is not charity but are entitlements meant for citizens. All citizens are entitled to receive this and none of them come through charity or somebody's mercy.

Privacy is such a simple concept to understand. If you go to a village and ask a stranger's name, the automatic response would be that of suspicion. They would ask why you want their name. Unlike this, people in the city would be very forthcoming with their name and phone number. People in the countryside are so willing to protect their privacy that they refuse to tell other people their name.

Dismissing my right to privacy and my feelings about it in the name of globalisation and privatisation and digitisation is very problematic. Expecting the poor and marginalised to give up on their right to privacy to provide information regarding their ration cards and their IDs is damaging.

Double standards

The authorities on the other hand are very dismissive about other people's privacy and protecting it. Without protecting privacy, we cannot protect the dignity of people. If somebody does not want to reveal personal information such as their past and what happened to them - what my mother's occupation was, whether or not she is alive - it is absolutely within their rights to not divulge such information.





Does anybody ask the prime minister what sort of card they have? Can anyone and everyone go and ask these questions to people in power? People in power believe that it is their right to impinge upon others' privacy. We ask acquaintances' children what their names are before we give them ours. We tend to believe that we are entitled to their names before we divulge ours. We do not obtain consent from these children either. This is a common practice for all of us.

I want to say very clearly the privacy and dignity is in each individual's discretionary power. I will decide how much dignity I want to have. You don't get to decide that, neither does the state nor does the civil society decide this. All lives are equally deserving of protection and dignity. I am living here with the article 21 of the Indian constitution - dignity.

Our constitutional right is violated when somebody breaches our privacy and feels entitled to the right to display individuals' information wherever they want. Now I don't even have to divulge information to anybody but they already know.

Company policy

For instance sometimes courier persons take photos of you when you receive packages to confirm that the courier has reached the intended recipient. I strongly objected to this when somebody was taking my picture. As that person explained to me that it was company policy to do so, I then asked him to take the package back to the company and refund my money right away.

This was not discussed beforehand, but the delivery person tried to placate me by saying that there is nothing wrong with having your picture taken. The courier person is trying to justify such an act by clicking an individual's picture without their permission. What is even more problematic is that it is in the rules of a delivery company.





Some people in this country believe that they don't need to seek permission to do anything to anybody's private information because they have forgotten that the citizen is the sovereign and that they are the most powerful. We the people of the country should make it very clear that we are sovereign citizens, and that is all that we should have to say. This is something that I have learnt from Usha.

Auditing data trails

Usha: A part of our problem is that the citizens have forgotten that they are sovereign. We are also giving up our rights without recognising what we are giving up so easily. Under RTI, as you asked, we are able to ask people in positions of power these questions. Despite the rule of law that says that every governmental process has to be transparent, this is being fought tooth and nail by restricting questions to topics that are permissible, stating that certain information is classified because it is private to that individual. It is actually interesting to see what they do want to share anywhere.

It would be interesting for civil society groups working on the ground to do some kind of an audit about how much information we are asking about people who are receiving their entitlements, and should we put it in the public domain.

There are many groups which say that PDS records should be put on the net, even though only the last four digits of every person's serial number would be there. The last four digits alone on a public record does not imply that the record is anonymised. Even with banking information, if you are able to provide your IFSC code to anybody, it is not very difficult to decode account information for somebody who has access.





Anybody with enough tech savvy can tell you who these people are in the first place. At some point civil society and all of us who use this information need to sit and do an audit of how much we are making demands of the poor, and of people who are on welfare -that is, the kind of people who are having to claim an entitlement because of the extreme inequality that we have in this country.

Public databases, private profit

We all talked about how 73 to 80 percent of all the wealth created is sitting with one person. How much are we contributing in this way by which people who are receiving assistance from the state are having to be on public databases?

The government keeps talking about formalising the economy. Which is to say everybody should enter the formalised economy. The classic place where you see this happening is the goods and services tax (GST). No matter how small you are, you are to register yourself with the GST authorities. Up to a certain extent you are not obliged to engage with the system overmuch, because if you are contributing to somebody else's business and they want to file for deduction of tax, then they need you to be registered.

Asking that everybody should be registered and on the GST and database, not to mention every transaction should happen through it, is what they call the formalisation of the economy. We need to understand that the informalisation of labour and formalisation of the economy are happening simultaneously. We need to take it upon ourselves to figure out what this means.



INTEGRATING HUMANS RIGHTS NORMS IN THE 'PRINCIPLES ON IDENTIFICATION FOR SUSTAINABLE DEVELOPMENT'



*Civil Society Consultation & Dialogue on the Principles on
Identification and digital ID
Monday, 24 August 2020 13:00 to 14:30 GMT
Inputs on draft principles on identification for sustainable
development: toward the digital age
By Human Rights Advocacy and Research Foundation (HRF)*

Our overarching concerns are as follows:

- Identification should be used to include more people into the safety nets, and to ensure that they get all the support required to meet the SDG goals (which provided the context for this exercise). It should not, at any cost, lead to exclusion of those already within the social security and welfare system, as the cost of inclusion of the 'ineligible' (those gaming the system) is much less than the cost of exclusion of the eligible (the left behind communities)
- There is a need to distinguish between identification and identity in the principles, which is presently being used interchangeably
- Presently, there is no mention or emphasis on human rights in any of the principles
- The language of the principles needs to be changed to address individuals and population groups as people and individuals instead of addressing them as users, which presently tilts the principles further away from human rights and more towards their commodification of people and population groups as consumers
- There is a need to highlight the need for offline identification documents and systems along with online systems, keeping in mind





the access gap due to the lack of Internet and other factors, emergencies and pandemics like the present COVID-19, floods, hurricanes, among others.

- There is a need for a clear distinction between functional and foundational identification documents to allow self-identification, in view of the discriminations faced by vulnerable and marginalised communities
- **OHCR's A Human Rights Approach to Data** needs to be adopted with respect to data collection, storage, processing and usage
- There is a need to highlight self-identification especially with respect to specific data categories while talking about function specific Identification documents. For instance, gender data may be unnecessary for all purposes. Disclosure of gender may be irrelevant in many instances.
- There is a need to clearly differentiate between a legal identification system and documents from a digital ID to emphasis the availability of offline options to individuals especially living in areas with no internet connectivity

The main concerns and suggestions are given below. Please note that the specific language additions have been made over the Draft Principles that already had changes tracked on them. The additions by HRF have been made **bold**.

Principle 1

Overall inputs:

- Under *Legal Identity for all*, legal identification systems **decentralised/federated ID system, functional and**





foundational identification, online and offline need to be clearly specified to avoid exclusions

Specifics:

- *Non-discrimination.* Identification systems should be free from intentional and unintentional discrimination in policy and in practice **by design**. This includes ensuring that the requirements and procedures to register, obtain, or use identification do not enable or reinforce discrimination against particular groups, such as those who may face increased risks of exclusion for cultural, political, economic or other reasons, including poor people, women, children, rural populations, racial and ethnic minorities, linguistic and religious groups, persons with disabilities, sexual and gender minorities, migrants, the forcibly displaced, and stateless persons, among others. Furthermore, identification systems and **identification** data should never be used as a tool for discrimination or to infringe on individual or collective **human** rights.

Principle 2: Remove barriers to access and use.

Overall:

- **Inclusion by design:** This is one of the key design elements. The entire effort should be to include rather than exclude. The SDGs are for the 'left behind' so the identification should not be one more instrument of exclusion. (After all we are talking about including them in the SDG process, which comes to just about \$2 per family per day in real terms). We do not need trillion dollar technologies for denying the poor even that much (we are doing it efficiently now anyway, as the many starvation deaths in India and around the world - including in Britain just yesterday! - clearly demonstrate).





Specifics:

- *Information asymmetries.* ID providers must work to ensure people's literacy and sensitization regarding identification systems to reduce knowledge barriers that might prevent individuals from accessing or using identification and foster a culture of trust and accountability around the system. Information and education campaigns must be inclusive and accessible to ensure that everyone has the knowledge, capacity, and tools they need to participate in the identification system and exercise their rights to oversight **by providing informed consent.**
- *Inclusion by design.* In addressing the above barriers, stakeholders should make particular efforts to include people from marginalized and vulnerable groups and associated community and advocacy organizations in the design process to proactively identify legal, procedural, social, and economic barriers faced by particular groups, adopt appropriate mitigation measures, and ensure that identification systems meet the needs and address the concerns of those that are most at risk of being excluded **and allow self-identification for individuals, especially from marginalised communities.**

Principle 3: Establish a trusted—unique, secure, and accurate—identification.

Overall:

- **Identity vs Identification:** It would help if ID is spelt out as *identification* right through the text, rather than use ID. In many contexts, ID is identity, and even in our discussion many were talking about identity, and the fluidity helps governments obfuscate, and use whichever they want it to mean to benefit the State rather





than the people. There is a world of difference, and we need to keep the distinction crystal clear. (The World Bank and governments use them interchangeably, and also in this document, see for instance footnote 2, and page 8 NGOs and CBOs, last line 'identity providers').

Specifics:

- *Information asymmetries.* ID providers must work to ensure people's literacy and sensitization regarding identification systems to reduce knowledge barriers that might prevent individuals from accessing or using identification and foster a culture of trust and accountability around the system. Information and education campaigns must be inclusive and accessible to ensure that *everyone* has the knowledge, capacity, and tools they need to participate in the identification system and exercise their rights to oversight **by providing prior informed consent.**
- *Technology gaps.* No one should be denied basic identification or associated services because they lack mobile or internet connectivity, electronic devices, digital literacy or skills, or the comfort or ability to use certain technology **and therefore the identification system should provide suitable offline alternatives including physical documents for individuals to identify themselves.** Stakeholders should work together to ensure that identification and authentication services are available to everyone, regardless of digital resources, capacity, or connectivity.
- *Inclusion by design.* In addressing the above barriers, stakeholders should make particular efforts to include people from marginalized and vulnerable groups and associated community and advocacy organizations in the design process to proactively identify legal, procedural, social, and economic barriers faced by particular





groups, adopt appropriate mitigation measures, and ensure that identification systems meet the needs and address the concerns of those that are most at risk of being excluded **and allow self-identification for individuals, especially from marginalised populations.**

Principle 4: Create a platform that responds to the needs of people and relying parties.

Overall:

- The primary framing of the Principle needs to include human rights in its language - Create a platform that responds to the needs of people and relying parties, **adhering to human rights principles**

Specifics:

- *Responsiveness.* Identification and authentication services should be designed to meet people's real needs and concerns **based on human rights principles**. In addition, they should be flexible, scalable, and useful for relying parties, the public agencies and private companies that use—or could use—them. This requires increasing people's participation in the design, implementation, and oversight of identification systems, as well as broad stakeholder consultation beginning with the design process and continuing throughout implementation that includes service providers, other relying parties, civil society, and the public at large.
- *Interoperability.* Interoperability is the ability of different databases or systems (e.g., ID and civil registration systems) to communicate with each other and exchange queries or information **adhering to human rights principles**. Subject to data protection laws and regulations and appropriate technical safeguards **and provision of information to individuals regarding the same in language in**





an accessible manner to everyone irrespective of race, literacy level, disability, language or any other information barrier to provide prior informed consent, this capability is essential for services such as identity verification or attestations, eKYC, or other permissioned data sharing and for mutual recognition of identification systems across borders.

Principle 5: Use open standards and prevent vendor or technology lock-in.

Overall:

- The open standards need to be qualified along with explicit mention of human rights principles.

Specifics:

- *Open standards.* Designs based around open standards **based on human rights principles** enable market-based competition and innovation. They are essential for greater efficiency, improved functionality, and adaptability of identification systems, both within country and across borders.

Principle 6: Protect privacy and agency through system design.

Overall:

- Reword the principle to include human rights - Protect privacy and agency through **human rights centric** system design.

Specifics:

- *Adherence to data protection principles.* Identification systems should comply with global norms for data protection, including data minimization and proportionality, purpose specification, strict limits on data retention, security, accountability, and transparency. For example, identification systems should limit the collection and





exposure of data—particularly sensitive personal information **only based on prior informed consent**—including in credentials and numbering systems. Authentication protocols must only disclose the minimum data necessary to ensure appropriate levels of assurance and retain data only for so long as it is required for the purposes for which the information may lawfully be used. These levels and the method of authentication should reflect an assessment of the level of risk in the transactions and should preferably be based on recognized international standards. Data rules and policies should be transparent and made available to people in a user-friendly format to facilitate knowledge of their rights and processes available to exercise control or oversight of their data.

Principle 7: Plan for financial and operational sustainability.

Overall:

- This needs to be delinked from user fees. The left behind communities, for whom the SDGs and the identification systems are made, will be unable to pay for these services. Inclusion is the responsibility of the state, and a human right. So alternate financial streams need to be in place.

Specifics:

- *Sustainability.* Identification systems should be designed for long-term fiscal and operational sustainability. This requires an outcomes-based **and human rights based** approach to design to ensure that the system is fit-for-purpose and makes sustainable management and technical choices, and the adoption of business models that ensure the longevity of the system without compromising other principles **including human rights**





principles. For example, when adopting fee-charging models for services—as done in many public-private partnerships (PPPs)—fees levels must be set to avoid creating costs barriers to access. Similarly, efforts to recuperating costs through efficiency gains and reduced leakages must weigh fiscal savings goals against the potential for increasing exclusion errors. Identification systems should be designed to incentivize high standards of performance for all parties involved.

Principle 8: Safeguard data protection, privacy, and user rights through a comprehensive legal and regulatory framework.

Overall:

- **User rights:** Users should have the right to full disclosure of the use to which the data is put into (even if anonymised), who has access (including all the departments, organisations and entities the data or metadata is sold to or shared with) free of cost, annually, without making a request. It should be a mandatory suomoto declaration.

Specifics:

- ***Legal and regulatory frameworks.*** Identification systems must be underpinned by legal and regulatory frameworks and strong policies that promote trust in the system, ensure data protection and privacy (including cyber-security), mitigate abuse such as unauthorized surveillance in violation of due process, **ensure maintenance of human rights principles and standards for all** and ensure provider accountability. Legal frameworks should be clear in delineating liability and recourse for individuals and should be overseen by independent regulatory bodies with appropriate powers and consistent funding. They should also protect people against inappropriate access and use of their data by third parties





for undue commercial surveillance or unlawful profiling. Frameworks require the right balance between regulatory and self-regulatory models that does not stifle competition, innovation, or investment. Appropriate legal and regulatory frameworks are also required for cross-border interoperability or mutual recognition.

- *User rights.* Identification services should provide people with genuine choice and control over the use of their data, including **self-identification for individuals of marginalised populations** and selectively disclose only those attributes that are required for a particular transaction. Users should be given simple means to have inaccurate data corrected free of charge and to obtain a copy of personal information held about them. Personal information should not be used for secondary, unconnected purposes without the user's informed consent, unless otherwise required under the law. **Identification service** providers and other stakeholders should be transparent about identity management, develop appropriate resources to raise users' awareness of how their data will be used, and provide them with user-friendly tools to manage their privacy and provide informed consent. Identification providers should ensure that the initial process to correct errors is administrative rather than judicial in order to increase speed of resolution and reduce costs. Data sharing arrangements should also be transparent and fully documented.

Principle 9: Establish clear institutional mandates and accountability.

Overall:

- Reword the principle to hold institutions accountable based on human rights principles - Establish clear institutional mandates and accountability **based on human rights principles**





Specifics:

- *Institutional mandates.* Enabling legislation and trust frameworks must establish and regulate comprehensive governance arrangements for identification systems and providers domestically and—if applicable—internationally **in accordance with universally accepted human rights principles**. This should include specifying the terms and conditions governing the institutional relations among participating parties, so that the rights and responsibilities of each are clear to all.
- *Accountability.* There should be clear accountability and transparency around the roles and responsibilities of all entities involved in building, operation, managing, and overseeing identification systems **to prevent any and all forms of human rights violations**.

Principle 10: Enforce legal and trust frameworks through independent oversight and adjudication of grievances.

Overall:

- **Trust and governance:** Add a new bullet point either for 'governance', or for 'Subsidiarity', and mention clearly that the final arbiter of exclusion will be a trusted individual rather than an algorithm. Increasingly the 'trusted individual' concept is being favoured even by government intelligence agencies. Then why not for the poor to access what are virtually peanuts in comparison? So the local government (the panchayats in India) should be able to include anyone, even if the identification system rejects.

Specifics:

- *Oversight.* The use of identification systems should be independently monitored (for efficiency, transparency, exclusion,





misuse, etc.) to ensure that all stakeholders appropriately use identification systems to fulfil their intended purposes **without violating any human rights principles**, monitor and respond to potential data breaches, and receive individual complaints or concerns regarding the processing of personal data.

- *Adjudication.* Disputes regarding identification and the use of personal data—for example, refusal to register a person or to correct data, or an unfavourable determination of a person's legal status—that are not satisfactorily resolved by **identification service** providers should be subject to rapid and low-cost review by independent administrative and judicial authorities with authority to provide suitable redress, **without any additional costs or discrimination of any persons, especially persons from marginalised populations.**

Page 8: Role of civil society, civil society organisations, and community organisations needs to be formalised, and resourced, by the governments. CSOs can have mass outreach programmes to educate and engage with community opinion leaders (including elected local government representatives, faculty of women's colleges, and media persons) to create a critical mass of informed citizens. Once the outreach reaches critical mass, they will hold the service providers accountable and ensure that the state will adhere to the principles.





Dr. Usha Ramanathan works in the jurisprudence of law, poverty and rights. She researches, writes, and speaks on issues including the nature of law, the Bhopal gas disaster, mass displacement, eminent domain, manual scavenging civil liberties, including death penalty, beggary, criminal law, custodial institutions, the environment, and judicial procedure.

She has been tracking and engaging with the Indian national ID project and has written and debated extensively on the subject. She has been writing and debating issues of technology and the human conditions of freedom and liberty over the years.

She has been in many committees advising the government. She was a member of the expert group on privacy set up by the planning commission of India which gave its recommendations and report in October 2012, member of a committee set up in the department of biotechnology to review the draft human DNA profiling bill in 2012 and member of the committee set up by the prime minister's office to study the socio-economic status of tribal communities which gave its report in 2014, and on vagrancy law. She was awarded Access Now's Human Rights Hero Award in 2019.

